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Letter dated 23 March 2012 from the Secretary-General to the President of the Security Council

By paragraph 11 of Security Council resolution 2015 (2011) of 24 October 2011, I was requested to compile and circulate information received from Member States on measures they have taken to criminalize piracy under their domestic law and to prosecute and support the prosecution of individuals suspected of piracy off the coast of Somalia and the imprisonment of convicted pirates.

I have the honour to submit to you the attached information, which has been received from 42 Member States (see annex).

I should be grateful if you would bring the present letter and its annex to the attention of the members of the Security Council.

(*Signed*) **BAN** Ki-moon

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Annex

[Original: Arabic/Chinese/English/
French/Russian/Spanish]

Compilation of information received from Member States on measures they have taken to criminalize piracy under their domestic law and to support the prosecution of individuals suspected of piracy off the coast of Somalia and imprisonment of convicted pirates

Summary

The present compilation has been prepared pursuant to paragraph 11 of Security Council resolution 2015 (2011) of 24 October 2011, by which the Council requested the Secretary-General to circulate information received from Member States on the measures they have taken to criminalize piracy under their domestic law and to prosecute and support the prosecution of individuals suspected of piracy off the coast of Somalia and imprisonment of convicted pirates. At the time of publication of the present document, information had been received from the following 42 Member States: Australia, Austria, the Bahamas, Bangladesh, Brazil, Bulgaria, Chile, China, the Czech Republic, Denmark, Djibouti, Estonia, Finland, France, Georgia, Germany, Greece, Ireland, Italy, Jamaica, Kazakhstan, Kuwait, Latvia, Lebanon, Liechtenstein, Lithuania, Malta, Mauritius, the Netherlands, Norway, Oman, Panama, Qatar, the Republic of Korea, the Republic of Moldova, the Russian Federation, Singapore, Slovakia, Slovenia, Spain, Turkey and the United Arab Emirates.

The information received from Member States has been reproduced as received. Texts of international instruments published in the United Nations *Treaty Series* have been substituted with relevant references.

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Australia

[Original: English]

Australia's domestic legal framework: piracy and enforcement powers

The Crimes Act 1914 (Cth) implements the piracy provisions of the United Nations Convention on the Law of the Sea. Section 52 of the Act prohibits acts of piracy. Section 51 of the Act defines piracy as "an act of violence, detention or depredation committed for private ends by the crew or passengers of a private ship or aircraft" and directed against:

- another ship or aircraft or against persons or property on board another ship or aircraft (when committed on the high seas or in the coastal sea of Australia); or
- a ship, aircraft, persons or property (when committed in a place beyond the jurisdiction of any State).

The "high seas" are defined as "seas that are beyond the territorial sea of Australia and of any foreign country" (section 51). This definition extends the application of the piracy offence to the exclusive economic zone of foreign States in a manner consistent with the United Nations Convention on the Law of the Sea. Under section 54 of the Act, a member of the Australian Defence Force or the Australian Federal Police (AFP) may seize a pirate-controlled ship or aircraft, or a thing on board such a ship or aircraft. Such seizure may be effected in Australia; on the high seas, or in a place beyond the jurisdiction of any country.

The Crimes (Ships and Fixed Platforms) Act 1992 (Cth) also establishes a range of offences, which implement those in the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation. For example, the Act establishes the offences of seizing a ship (section 8) and performing an act of violence on a ship (section 9).

Activities undertaken by Australia to support the prosecution of individuals suspected of piracy off the coast of Somalia and their imprisonment

Australia strongly supports continued international efforts to detain and prosecute pirates off the coast of Somalia. In this respect, Australia supports a regional approach, with prosecutions occurring in the domestic judicial systems of regional countries and, where possible, incarceration in those countries.

Australia recognizes regional countries may require assistance in developing their capacity to prosecute and incarcerate suspected pirates. Australia has supported initiatives by the United Nations Office on Drugs and Crime counter-piracy programme through funding, training and personnel programmes, building prisons and developing the law and justice system in Somalia. In 2012, the Australian Agency for International Development (AusAID) will fund the deployment of an AFP officer to the counter-piracy programme. This builds on deployment of AFP officers in 2011 and 2009/10. In 2011, AusAID provided $749,780 to the counter-piracy programme to assist in building the criminal justice capacity of regional States (primarily Kenya, Seychelles, Tanzania and Maldives) to respond to the problem of piracy, and to improve the corrections regime in Somalia. This built on a 2009/10 contribution of $500,000 to the Programme. More specifically, the funding for 2011 was to be used to: support the building of a prison in Kenya and recruit a

corrections officer; provide logistical support, courtroom security enhancements, legal aid and judicial training for the courts and prosecutors in Kenya and Seychelles; mentor and train police officers; refurbish prison infrastructure to achieve minimum standards for health and safety; and enable the dissemination of piracy trial results in Somalia as a deterrent.

More widely, Australia participates in Working Group 2 of the Contact Group on Piracy off the Coast of Somalia, which has made significant progress in developing common understandings of the legal issues surrounding Indian Ocean piracy, particularly in relation to the detention and prosecution of pirates.

Austria

[Original: English]

Most crimes relating to maritime piracy can be subsumed to crimes enumerated in the Austrian Criminal Code (e.g. murder, deprivation of liberty, physical injury or traffic in human beings).

These crimes are punishable in Austria, if they are also punishable by the law applicable at the place of crime (double incrimination rule) and if the perpetrator is either an Austrian or is caught on Austrian territory and cannot be extradited for a reason other than the nature or feature of his act. For crimes committed on the high seas the double incrimination rule does not apply; incrimination under Austrian law is sufficient (section 65 of the Criminal Code). However, each prosecution of that kind, presupposing the transfer of a non-Austrian perpetrator to Austria, depends on the approval of the competent Austrian authorities.

Provided that Austrian interests were violated or that the perpetrator cannot be extradited, Austrian criminal laws are applicable for special crimes (e.g. kidnapping or slave traffic) regardless of the law applicable at the place of crime. Furthermore, Austrian criminal laws are applicable if an international treaty contains the obligation to prosecute (section 64 of the Criminal Code).

Crimes committed on board an Austrian vessel can be prosecuted wherever the vessel is located (section 63 of the Criminal Code).

Furthermore, the Austrian Maritime Law contains two paragraphs on maritime piracy: section 45 penalizes the threat or use of violence against persons to take possession of a ship, its cargo, or persons on board. The equipment or operation of a ship, including service on such ship, for the purpose of maritime piracy is punishable under section 46. However, the scope of application of the Austrian Maritime Law is confined to Austrian ships.

Bahamas

[Original: English]

At present, the domestic law for the criminalization of piracy in the Bahamas is codified in section 404 of the Penal Code, Chapter 84 in the Statute Law of the Bahamas. Section 404 provides that:

"Whoever is guilty, or of any crime connected with or relating or akin to piracy, shall be liable to be tried and punished according to the law of England for the time being in force."

Therefore, domestic law offers no further clarification other than a reliance on the English Law for the criminalization of piracy in the Bahamas. On the same note, the Act does not provide a definition for piracy in our domestic laws. However, international law in the United Nations Convention on the Law of the Sea of 10 December 1982 sets out the legal framework in articles 100, 101 and 105. Possibly, article 101 lends a constructive definition of piracy for our purposes:

"(a) any illegal acts of violence or detention, or any act of depredation, committed for private ends by the crew or the passengers of a private ship or a private aircraft, and directed:

(i) on the high seas, against another ship or aircraft, or against persons or property on board such ship or aircraft;

(ii) against a ship, aircraft, persons or property in a place outside the jurisdiction of any State;

(b) any act of voluntary participation in the operation of a ship or of an aircraft with knowledge of facts making it a pirate ship or aircraft;

(c) any act of inciting or of intentionally facilitating an act described in subparagraph (a) or (b)."

It is worth noting that the United Nations imposes a duty on all States to cooperate in the repression of piracy.

Accordingly, article 100 provides that

"All States shall cooperate to the fullest possible extent in the repression of piracy on the high seas or in any other place outside the jurisdiction of any State."

In essence, this means that every State has the jurisdiction to seize a vessel suspected of piracy, a vessel taken by pirates or under the control of pirates and arrest the persons and seize the property on board. In this vein, article 105 adds that the judicial system of the arresting State has the jurisdiction to determine the form of punishment and the necessary action concerning the seized ships, aircraft or property, subject to the rights of third parties acting in good faith.

Notwithstanding the prevalence of the notorious epidemic of piracy in the Gulf of Aden, Member States are not at liberty to attack or kill Somalian pirates, since the high seas are reserved for "peaceful purposes". Instead, the pirates must be apprehended, except in cases of self defence.

To date, the Law Reform and Revision Commission has no instruction from Parliament to review section 404 of the Penal Code, Chapter 84, relating to the criminalization of piracy as contained in our domestic law. In short, there has been no amendment or repeal of our Penal Code, Chapter 84, specifically to section 404 as it relates to the offence of piracy.

In conclusion, the domestic law has made provision for the criminalization of piracy, notwithstanding an apparent reliance on the Laws of England. Undoubtedly, the domestic law of England is consistent with applicable international law, including human rights law. For in England, the crime of piracy is defined in the

Merchant Shipping and Maritime Security Act 1997 (in section 26 and Schedule 5), which sets out articles 101 to 103 of the United Nations Convention on the Law of the Sea (1982). In England, the penalty for the offence of piracy was the death penalty, but that has since been abolished, the penalty is now life imprisonment.

Bangladesh

[Original: English]

Giving due consideration to the Security Council resolution, Bangladesh is deeply concerned about piracy, particularly piracy conducted off the coast of Somalia. The Government of Bangladesh is taking necessary initiatives to amend and update the national code of criminal procedure to prosecute acts of piracy and armed robbery against individuals who incite, plan, organize, facilitate or finance piracy. Once it is finalized, Bangladesh would be able to prosecute individuals suspected of piracy off the coast of Somalia. Bangladesh is also very actively engaged and cooperating with different regional bodies, including the *Regional Co-operation Agreement on Combating Piracy and Armed Robbery against Ships in Asia (ReCAAP)*, and the *South Asia and Africa Regional Port Stability Cooperative (SAARPSCO)*, demonstrating its strong commitment in combating piracy.

Brazil

[Original: English]

Brazil vehemently condemns acts of piracy wherever they may occur. Our domestic legislation features the necessary elements to prosecute suspects of crimes classified as relating to acts of piracy. The Brazilian Penal Code criminalizes, under its article 157, armed robbery in all national jurisdiction, both at sea and on land.

Brazil has also incorporated into its domestic legislation the United Nations Convention on the Law of the Sea, which establishes that all States have the obligation of cooperating in the repression of piracy and may exercise universal jurisdiction over crimes related to acts of piracy committed on the high seas.

Bulgaria

[Original: French]

No specific provisions on maritime piracy currently exist in domestic legislation.

With a view to implementing the commitments made under Security Council resolutions on ensuring the security of international maritime traffic, the Ministry of Justice of the Republic of Bulgaria has established a working group to conduct a comprehensive review of domestic legislation, in particular the Penal Code (chapter XI, section II, on crimes involving transport and communications), in order to formulate specific provisions criminalizing maritime piracy for inclusion in the Penal Code currently being drafted.

Chile

[Original: Spanish]

The offence of piracy is established in article 434 of the Criminal Code, which provides that, "Anyone who commits acts of piracy shall be punished with rigorous imprisonment in the minimum degree to rigorous imprisonment for life". The penalty involves deprivation of liberty for a period ranging from five years and one day up to a life sentence.

Furthermore, article 6 of the Chilean Organic Code on Courts provides a list of offences that may be subject to the jurisdiction of Chilean courts, even in cases when the offence is committed outside of Chilean territory. Piracy is included among the offences cited in subparagraph 7 of the article, without distinction as to whether the act is committed by a national or a foreigner.

In addition, the appropriate measures are being taken to incorporate Security Council resolution 2020 (2011) of 22 November 2011 into domestic law.

China

[Original: Chinese]

Information on legislative and practical measures by China to combat piracy

A. Provisions of Chinese law categorizing piracy as an offence

Article 101 of the United Nations Convention on the Law of the Sea provides a definition of piracy, according to which:

> Piracy consists of any of the following acts:
>
> (a) any illegal acts of violence or detention, or any act of depredation, committed for private ends by the crew or the passengers of a private ship or a private aircraft, and directed:
>
> (i) on the high seas, against another ship or aircraft, or against persons or property on board such ship or aircraft;
>
> (ii) against a ship, aircraft, persons or property in a place outside the jurisdiction of any State;
>
> (b) any act of voluntary participation in the operation of a ship or of an aircraft with knowledge of facts making it a pirate ship or aircraft;
>
> (c) any act of inciting or of intentionally facilitating an act described in subparagraph (a) or (b).

China's Criminal Code does not include the offence of piracy, but the various acts of piracy specified in the Convention may, in accordance with their specific circumstances, incur criminal liability under relevant provisions of the Criminal Code:

(a) Acts of violence, detention or depredation committed against vessels or aircraft may, in accordance with the provisions of the Criminal Code, constitute offences of the hijacking of aircraft (article 121), the hijacking of vessels (article 122), the destruction of means of transport (article 116), or robbery (article 263), etc.;

(b) Acts of violence, detention or depredation committed against persons or property on board vessels or aircraft may, in accordance with the provisions of the Criminal Code, constitute offences of malicious injury (article 234), wilful homicide (article 232), kidnapping (article 239), unlawful detention (article 238), robbery (article 263), forcible seizure (article 267), etc.;

(c) Any act of voluntary participation in the operation of a ship or of an aircraft with knowledge of facts making it a pirate ship or aircraft or of inciting or intentionally facilitating an act of piracy may, in accordance with the Criminal Code, be dealt with as complicity in the commission of the offence constituted by the specific act in question (articles 25, 26, 27 and 29); acts inciting piracy may also constitute the offence of passing on criminal methods (article 295).

B. Provisions of Chinese law on the prosecution of suspected pirates

Where the offences constituting piracy are concerned, China is able to exercise its jurisdiction in accordance with the following legal provisions:

(a) Article 6 of the Criminal Code stipulates that:

Anyone who commits an offence within the territory of the People's Republic of China, except as otherwise specifically provided by law, shall be subject to the application of this Code. The Code shall also be applicable to anyone who commits an offence on board a vessel or aircraft of the People's Republic of China. If a criminal act or its consequences occur within the territory of the People's Republic of China, the offence shall be deemed to have been committed within the territory of the People's Republic of China.

(b) Article 7 of the Criminal Code stipulates that:

Citizens of the People's Republic of China who commit offences defined by this Code outside the territory of the People's Republic shall be subject to the application of this Code; if, however, the maximum penalty prescribed by the Code is three years' imprisonment, the requirement to conduct a criminal investigation may be waived. State functionaries and military personnel of the People's Republic of China who commit offences defined by this Code outside the territory of the People's Republic shall be subject to the application of the Code.

(c) Article 8 of the Criminal Code stipulates that:

Foreigners who commit offences outside the territory of the People's Republic of China against the State of the People's Republic or against its citizens shall be subject to the application of this Code, if the minimum penalty prescribed by the Code is three years' imprisonment; no penalty shall be applied, however, for an offence that is not punishable under the law of the place where it was committed.

(d) Article 9 of the Criminal Code stipulates that:

This Code shall apply to offences defined in the international treaties concluded by the People's Republic of China or to which it has acceded and

offences over which, within the scope of the obligations defined in these treaties, the People's Republic of China exercises criminal jurisdiction.

C. Action taken by China to support the prosecution of suspected pirates captured in Somalia

In February 2009, following an exchange of notes between the Government of the People's Republic of China and the Somali Transitional Federal Government, China duly handed over to Somalia suspected pirates captured in Somali waters and arrangements were concluded between the two countries on their prosecution under Somali law.

In December 2009, the Government of the People's Republic of China and the Government of the Republic of Kenya signed a memorandum of understanding on the transfer of suspected pirates captured in Somali waters.

Czech Republic

[Original: English]

Criminalization of piracy under Czech law — Criminal Code N. 40/2009 Coll.

Section 290

Gaining control over an aircraft, civilian vessels and fixed platform

(1) Whoever on board of an aircraft, civilian vessel, or a fixed platform on a continental shelf with the intention to gain or exercise control over the aircraft, civilian vessel, or fixed platform

(a) uses violence against other persons or a threat of imminent violence,

(b) threatens another person with death, bodily harm, or causing extensive damage, or

(c) exploits vulnerability of another person, shall be sentenced to imprisonment for eight to fifteen years or to confiscation of property.

(2) An offender shall be sentenced to imprisonment for twelve to twenty years or to an exceptional sentence of imprisonment, eventually in parallel to this sentence also to confiscation of property, if he/she

(a) causes grievous bodily harm to at least two persons or death by the act referred to in paragraph (1),

(b) commits such an act during a state of national emergency or state of war.

(3) Preparation is criminal.

Denmark

[Original: English]

Denmark has taken several initiatives to criminalize piracy under domestic law and to prosecute and support the prosecution of individuals suspected of piracy and imprisonment of convicted pirates.

1. Denmark has the following national legislation:

Under section 183 A (rev. 1992) of the Danish Criminal Code, it is a punishable offence under section 260 to take control of or interfere with the manoeuvring of a ship by unlawful means. The maximum sentence is life imprisonment. Section 183 A has the following wording:

"**183 A**. A person who takes control of an aircraft, a ship or any other means of public passenger or cargo transport or interferes with its manoeuvring, by using unlawful coercion as described in section 260 of this Act, shall be liable to punishment for any term extending to imprisonment for life.

(2) The same penalty shall apply to a person who takes control of an offshore plant by using unlawful coercion as described in section 260 of this Act."

Section 260 regarding unlawful coercion as mentioned in section 183 A has the following wording:

"**260**. A person who forces another to do, suffer or omit something:

(1) by violence or by threats of violence, substantial damage to property, deprivation of liberty, false accusations of a punishable act or dishonourable conduct or revelation of matters relating to the other's private affairs;

(2) by threats of reporting or revealing a punishable act or making a true accusation of dishonourable conduct, in a situation where such coercion is not deemed to be duly justified by the circumstance to which the threat relates; commits the offence of unlawful coercion and shall be liable to a fine or imprisonment for any term not exceeding two years.

[...]"

The Danish Criminal Code further contains provisions on attempt and complicity. Attempt is covered by section 21, which reads as follows:

"**21**. Acts that are aimed to promote or accomplish an offence shall, when the offence is not completed, be punished as an attempt.

(2) The penalty prescribed for the offence may be reduced in the case of attempt, particularly where the attempt bears evidence of little strength of or persistence in the criminal intention.

(3) Unless otherwise provided, an attempt shall only be punished when the offence carries a penalty that exceeds imprisonment for four months."

Complicity is covered by section 23, which reads as follows:

"**23**. The penalty provisions laid down for an offence shall apply to all persons who have aided, abetted, counselled or procured the commission of the offence. The penalty may be reduced in the case of a person who has only intended to lend assistance of minor importance or strengthen a determined intent and in case the crime has not been completed or an intended contribution has failed.

(2) The penalty may moreover be reduced in the case of a person who has contributed to the breach of a duty in a special relationship in which he himself had no part.

(3) Unless otherwise provided, the penalty for aiding and abetting offences that do not carry sentences more severe than simple detention may be rescinded where the accomplice only intended to lend assistance of minor importance or strengthen a determined intent or where his complicity was due to negligence."

Denmark exercises jurisdiction under the principle of territoriality as well as the principles of active and passive personality. Jurisdiction may be exercised for acts of piracy committed outside the territory of the Danish State under section 8 B if the perpetrator is a Danish citizen, a Danish resident or present in Denmark. Section 8 B reads as follows:

"**8B**. An act committed outside the territory of the Danish state is subject to Danish criminal jurisdiction, where the act is covered by section 183 A of this Act where the act has been committed by a person:

(1) who is a Danish national or has his abode or residence in Denmark; or

(2) who is present in Denmark at the time when the charge is raised.

(2) The prosecution of acts covered by subsection (1) above may also include violations of sections 237 and 244-248 of this Act, when they are committed in conjunction with violation of section 183 A of this Act."

2. The Ministry of Justice, in cooperation with representatives from Danish Defence, the National Police and the public prosecutor's office, has formulated guidelines for Danish naval vessels on how to handle cases that may result in prosecution of pirates in Denmark. These guidelines contain specific directions on collection of evidence and communication between authorities in order to ensure a suitable execution of a potential criminal case about piracy.

3. As regards the prosecution of individuals suspected of piracy, the Public Prosecutor for Serious International Crime mentioned that, on 31 December 2010, it was reported for investigation that a small vessel with six persons, a large amount of petrol, possibly weapons and no fishing gear had sailed close to a Danish registered containership of considerable size in the Gulf of Aden. The six persons were apprehended by a Danish naval vessel and in absentia taken into custody by the City Court of Copenhagen for attempted piracy. The Eastern Court of Appeal and the Supreme Court upheld the decision. Investigations were discontinued due to lacking prospect of conviction, as no specific attack had been launched against the Danish ship.

4. In autumn 2010, a task force on criminal prosecution was established, consisting of representatives of the Danish Ministry of Justice, the Ministry of Foreign Affairs and the Ministry of Defence. The task force meets on an ad hoc basis to consider specific cases on criminal prosecution of suspected pirates held in custody of the Danish naval military forces off the coast of Somalia.

5. Denmark is continuously working to make bilateral agreements with countries in the region on transfers of Somali pirate suspects for prosecution in

Somalia. The transfer agreement between Denmark and Kenya expired in September 2010. Kenya has, however, stated its continued preparedness to receive pirates for prosecution on an ad hoc basis. To date, in addition, Denmark has entered into a transfer agreement with Seychelles.

6. In June 2011, Denmark handed over 24 suspected pirates to Kenya for prosecution. The suspected pirates were detained by the Danish naval vessel *Esbern Snare* following its seizing of an Iranian mother ship off the coast of Somalia and the freeing of 16 Iranian hostages on board the ship. In connection with the forthcoming court case, the Danish Government is assisting the Kenyan authorities with practical preparations for the trial and by ensuring the presence of Danish military officers, who have been summoned to give testimony at the court hearing in Kenya.

7. The Government of Denmark has recently approved a new regional stabilization programme for the Horn of Africa in the amount of DKK 215 million for the period form 2011 to 2014, to be funded through the Danish Peace and Stabilisation Fund, of which a part will be dedicated to countering piracy, through capacity-building and imprisonment of convicted pirates. The fund is administered through a whole-of-government framework, which deepens integration between efforts in diplomacy, defence and development and emphasizes the priority of the Danish Government to enhance sustainable and comprehensive stabilization efforts based on local ownership and capacity-building. The Danish programme will support justice and security sector reform in Somalia, inter alia, through training of judicial capacity and police and security sector reform, as well as expanding existing prison capacity. These activities, which will be funded through the United Nations Development Programme and the United Nations Office on Drugs and Crime, are essential in preventing and countering piracy, by ensuring the prosecution of suspected pirates, as well as the broader stabilization of Somalia.

Denmark also hosted the twentieth meeting of the International Contact Group on Somalia, which was held on 29 and 30 September 2011, focusing on the Mogadishu road map on ending the political transition and outlining the priority tasks to be accomplished in the coming year, including outreach and reconciliation, security and the finalization and adoption of the Constitution.

8. Since the beginning of 2009, Denmark has chaired 9 meetings of the Working Group on Legal Issues (Working Group 2) of the Contact Group on Piracy off the Coast of Somalia. Working Group 2 has provided specific, practical and legally sound guidance to the Contact Group on Piracy off the Coast of Somalia, States and organizations on all legal aspects of counter-piracy. At its triannual meetings, the participants exchange information on ongoing judicial activities, including specific court cases, as well as on relevant capacity-building activities in the region.

Working Group 2 has undertaken a thorough analysis and discussion on how to ensure the effective prosecution of suspected pirates. From the outset, the focus of the discussions has been on how to ensure an increasing number of prosecutions in the region, but Working Group 2 has discussed all options, including those outlined in the various United Nations reports and Security Council resolutions. According to the United Nations Office on Drugs and Crime, as of autumn 2011, more than 1,000 pirates are either serving or awaiting their sentences in 20 countries.

Djibouti

[Original: French]

Piracy

The recent phenomenon of piracy in the East Africa region has caused major disruptions for the countries of the region and is also of concern to the international community.

A series of pirate attacks on ships in the Gulf of Aden and the Indian Ocean has been disrupting maritime traffic in that area, even when carried out at some distance from the shores of coastal States. In the past few years, the region has become a global hot spot.

Securing commercial maritime routes and fishing areas, in response to the spread of piracy in the Gulf of Aden, off the coast of Somalia and on the high seas is now a priority.

These acts of piracy represent both a threat to peace and international security and a real danger for the Republic of Djibouti, situated as it is at the crossroads of maritime routes. Support in this area would include providing naval forces with maritime surveillance radars, patrol boats, Zodiac boats, binoculars, surveillance cameras and vehicles to ensure security at checkpoints.

Several ships and their crews are being held by pirates along the coast of Somalia.

Under the aegis of the International Maritime Organization, the Republic of Djibouti hosted a subregional conference on pirate attacks, from 26 to 29 January 2009, which took decisions regarding:

(1) Adoption of the Djibouti Code of Conduct concerning the Repression of Piracy and Armed Robbery against Ships in the Western Indian Ocean and the Gulf of Aden;

(2) Establishment of a regional training centre for personnel responsible for suppressing piracy and armed robbery against ships.

In this connection, a multisectoral committee tasked with coordination of and follow-up to the establishment of the regional maritime training centre was formed, pursuant to a decree of 19 April 2009.

Its responsibilities include:

(1) Studying and following up on various piracy-related issues;

(2) Coordination between various ministerial departments;

(3) Consolidation within the Ministry of Transport of all data collected.

The committee thus functions as an interface between the authorities of the Republic of Djibouti and the international community, in particular the International Maritime Organization and the European Union, as well as other countries.

Djibouti belongs to the Contact Group on Piracy off the Coast of Somalia, which includes 27 States and six international organizations as members.

The establishment of the Contact Group is indicative of the commitment of the international community to promoting maritime security, protecting international commerce and guaranteeing safe passage for humanitarian aid shipments.

Piracy is detrimental to international commerce for the following reasons:

- It leads to increased maritime shipping costs and is a deterrent to development in the region;
- It delays and disrupts activities in the region;
- It diverts humanitarian aid intended for the poor and disadvantaged;
- It poses a threat to the energy supply routes of many countries;
- It causes increases in maritime insurance rates, etc.

This action comes in response to the appeal by the international community, and in particular the Security Council, which has called upon the States of the region to implement as soon as possible regional training and coordination mechanisms to prevent and eliminate acts of piracy and armed robbery against ships. It consists of:

- Making coastguard training a priority in order to strengthen anti-piracy efforts and improve security in the region;
- Training sea-going personnel, including seamen, customs agents, etc., who face the reality of piracy in the field;
- Subsequent expansion of training for the coastguards of the region.

These actions are aimed at:

- Prevention
- Information
- Repression

Nonetheless, it is apparent that the international forces patrolling the Gulf of Aden and the Western Indian Ocean face enormous difficulties with regard to prosecution of pirates. Where, how and by whom should pirates be prosecuted? Should they be prosecuted by the flag State, the State whose nationals were taken hostage or the State of the shipowners?

As piracy is one of the more ancient crimes under international law, it might be concluded that all States are, in theory, competent to prosecute and try perpetrators.

Yet it appears that the issue has not been resolved for the parties concerned, particularly for the international forces patrolling the zones affected.

The predicament of the international community with regard to this matter raises questions about its ability to tackle piracy.

Acts of piracy are punishable under the criminal laws of the Republic of Djibouti, most importantly, under articles 208 and 209 of the Code of Maritime Affairs of 18 January 1982, which state:

Article 208: The following shall be prosecuted and tried as pirates:

1° Anyone who is a crew member of a ship flying the Djiboutian flag who perpetrates armed criminal acts or acts of violence against Djiboutian ships or against ships belonging to a Power with which the Republic of Djibouti is not at war, or against the crew or cargo of such ships;

2° Anyone who is a crew member of a foreign ship which is neither at war nor holds a letter of marque and reprisal or a valid commission, who perpetrates against Djiboutian ships, their crews or cargos the acts described in the previous subparagraph;

3° Any individual who is a crew member of a ship of the Republic of Djibouti who attempts to seize that ship through deception or violence perpetrated against the captain.

Article 209: Anyone found guilty of the crime of piracy shall be sentenced to hard labour or incarceration. Note that the punishment of hard labour no longer exists in Djibouti.

Furthermore, articles 385 and 387 of the Criminal Code of Djibouti of 1995 state that hijacking aircraft, ships or other modes of transport with people on board carries a penalty of 20 years' rigorous imprisonment.

Article 385: Seizing or taking control by means of violence or threat of violence of an aircraft, ship or other mode of transport with people on board carries a penalty of 20 years' rigorous imprisonment.

Article 386: When accompanied by torture or acts of cruelty or if it results in the death of one or more persons, the offence set forth in article 385 carries a life sentence of rigorous imprisonment.

Article 387: Anyone who through the communication of false information knowingly jeopardizes the security of an aircraft in flight or of a ship shall be sentenced to five years' imprisonment and a fine of 2 million Djibouti francs.

The criminal provisions adopted before piracy became widespread are applicable in limited cases and areas. Offences shall be deemed to have been committed within the territory of the Republic of Djibouti if:

- The offences are committed within the national territory;
- An act comprising a constituent element of the crime is carried out within the territory of Djibouti;
- Offences are committed on board ships flying the flag of Djibouti or against its aircraft, regardless of location; or
- Offences are perpetrated against Djiboutian military aircraft.

Estonia

[Original: English]

In the Republic of Estonia piracy is criminalized under the Penal Code. Article 110 of the Penal Code says that

> attacking, seizure or destruction of a ship on the high seas or in a territory outside the jurisdiction of any State, or attacking or detention of persons on board such ship, or seizure or destruction of property on board such ship by using violence, is punishable by 2 to 10 years' imprisonment. The same criminal act, if it causes the death of a person, major damage or a danger to the life and health of a large number of people is punishable by 6 to 20 years' imprisonment.

Finland

[Original: English]

Piracy is understood [...] as defined in article 101 of the United Nations Convention on the Law of the Sea, including the requirement that the act is committed in the high seas or in a place outside the jurisdiction of any State.

According to the Finnish Penal Code and Decree issued on the basis of Section 7 of Chapter 1 of the Penal Code, piracy is defined as follows:

> "Homicide, assault, deprivation of liberty or robbery directed at a person on board a vessel or aircraft, or seizure, theft or damage of a vessel, aircraft or property on board a vessel or aircraft that is to be deemed piracy as referred to in the United Nations Convention on the Law of the Sea (Treaties of Finland 50/1996), (118/1999)".

Chapter 1 of the Finnish Penal Code contains extensive rules on extraterritorial jurisdiction. According to its provisions, Finnish law applies to an offence connected with a Finnish vessel (section 2). Finnish law applies also to an offence committed outside of Finland and directed at a Finnish citizen, a Finnish corporation, foundation or other legal entity, or a foreigner permanently resident in Finland (section 5). Furthermore, Finnish law applies to an offence committed by a Finnish citizen. The so-called active nationality principle is not limited to Finnish citizens, but covers also persons permanently resident in Finland, citizens of other Nordic States or persons permanently resident in one of those countries (section 6). When applying the above-mentioned provisions on active and passive nationality, it is required that the act may be punishable by imprisonment of more than six months.

In accordance with the Penal Code, Chapter 1, Section 7, Finnish law applies also to an offence committed outside of Finland where the punishability of the act, regardless of the law of the place of commission, is based on an international agreement binding on Finland or on another statute or regulation internationally binding on Finland (international offence). A decree issued by virtue of this provision refers to the United Nations Convention on the Law of the Sea.

As a main rule, a criminal case where the offence was committed abroad may not be investigated in Finland without a prosecution order by the Prosecutor-General. There are certain exceptions to this rule, for instance in situations where

the offence has been committed by a Finnish citizen or directed against Finland (section 12 of the Penal Code).

An English translation of Chapter 1 of the Finnish Criminal Code and of relevant provisions of Decree issued on the basis of Section 7 of Chapter 1, is attached to this report.

Finland participated with a vessel to the EU NAVFOR Atalanta, the European Union military crisis operation against piracy off the coast of Somalia, in the beginning of 2011. This was the first time Finland participated with a ship in a maritime crisis management operation. Finland also continues to send officials to the operational headquarters of EU NAVFOR Atalanta.

For the purposes of Finland's participation in Operation Atalanta, an Act on the Handling of Criminal Matters concerning Persons Suspected of Piracy or Armed Robbery in connection with EU NAVFOR Atalanta, the European Union Military Crisis Management Operation (1034/2010) was adopted. The act applies to the procedure to be followed in situations where, during the operation, a person apprehended as suspected of piracy or armed robbery is kept on board a vessel under Finnish flag, or in other cases where Finland is asked whether it will exercise criminal jurisdiction in the matter.

In order to support efforts to prosecute individuals suspected of piracy off the coast of Somalia and the imprisonment of convicted pirates, in 2011, Finland gave a voluntary financial contribution of 190,000 euros to the United Nations Office on Drugs and Crime programme on combating maritime piracy in the Horn of Africa.

Attachment

Translation of Chapter 1 of the Finnish Penal Code

Chapter 1 - Scope of application of the criminal law of Finland (626/1996)

(amendments up to 940/2008 included)

Section 1 - *Offence committed in Finland*

(1) Finnish law applies to an offence committed in Finland.

(2) Application of Finnish law to an offence committed in Finland's economic zone is subject to the Act on the Economic Zone of Finland (1058/2004) and the Act on the Prevention of Ship-Source Pollution of Waters (300/1979). (1067/2004)

Section 2 - *Offence connected with a Finnish vessel*

(1) Finnish law applies to an offence committed on board a Finnish vessel or aircraft if the offence was committed

(1) while the vessel was on the high seas or in territory not belonging to any State or while the aircraft was in or over such territory, or

(2) while the vessel was in the territory of a foreign State or the aircraft was in or over such territory and the offence was committed by the master of the vessel or aircraft, a member of its crew, a passenger or a person who otherwise was on board.

(2) Finnish law also applies to an offence committed outside of Finland by the master of a Finnish vessel or aircraft or a member of its crew if, by the offence, the

perpetrator has violated his or her special statutory duty as the master of the vessel or aircraft or a member of its crew.

Section 3 - *Offence directed at Finland*

(1) Finnish law applies to an offence committed outside of Finland that has been directed at Finland.

(2) An offence is deemed to have been directed at Finland

(1) if it is an offence of treason or high treason,

(2) if the act has otherwise seriously violated or endangered the national, military or economic rights or interests of Finland, or

(3) if it has been directed at a Finnish authority.

Section 4 - *Offence in public office and military offence*

(1) Finnish law applies to an offence referred to in chapter 40 of this Code that has been committed outside of Finland by a person referred to in chapter 40, section 11, paragraphs (1), (2), (3) and (5) (604/2002).

(2) Finnish law also applies to an offence referred to in chapter 45 that has been committed outside of Finland by a person subject to the provisions of that chapter.

Section 5 - *Offence directed at a Finn*

Finnish law applies to an offence committed outside of Finland that has been directed at a Finnish citizen, a Finnish corporation, foundation or other legal entity, or a foreigner permanently resident in Finland if, under Finnish law, the act may be punishable by imprisonment for more than six months.

Section 6 - *Offence committed by a Finn*

(1) Finnish law applies to an offence committed outside of Finland by a Finnish citizen. If the offence was committed in territory not belonging to any State, a precondition for the imposition of punishment is that, under Finnish law, the act is punishable by imprisonment for more than six months.

(2) A person who was a Finnish citizen at the time of the offence or is a Finnish citizen at the beginning of the court proceedings is deemed to be a Finnish citizen.

(3) The following are deemed equivalent to a Finnish citizen:

(1) a person who was permanently resident in Finland at the time of the offence or is permanently resident in Finland at the beginning of the court proceedings, and

(2) a person who was apprehended in Finland and who at the beginning of the court proceedings is a citizen of Denmark, Iceland, Norway or Sweden or at that time is permanently resident in one of those countries.

Section 7 - *International offence*

(1) Finnish law applies to an offence committed outside of Finland where the punishability of the act, regardless of the law of the place of commission, is based on an international agreement binding on Finland or on another statute or regulation internationally binding on Finland (*international offence*). Further provisions on the application of this section shall be issued by Decree.

(2) Regardless of the law of the place of commission, Finnish law applies also to a nuclear explosive offence or the preparation of an endangerment offence that is to be deemed an offence referred to in the Comprehensive Nuclear Test Ban Treaty (Treaties of Finland 15/2001) (841/2003)

(3) Regardless of the law of the place of commission, Finnish law applies also to trafficking in persons, aggravated trafficking in persons and an offence referred to in chapter 34a committed outside of Finland. (650/2004)

Decree on the application of chapter 1, section 7 of the Criminal Code (627/1996)

Section 1

1) In the application of chapter 1, section 7 of the Criminal Code, the following offences are deemed international offences:

[...]

12. homicide, assault, deprivation of liberty or robbery directed at a person on board a vessel or aircraft, or seizure, theft or damage of a vessel, aircraft or property on board a vessel or aircraft that is to be deemed piracy as referred to in the United Nations Convention on the Law of the Sea (Treaties of Finland 50/1996), (118/1999)

[...]

(2) Also a punishable attempt of and punishable participation in an offence referred to in subsection 1 is deemed an international offence.

Section 8 - *Other offence committed outside of Finland*

Finnish law applies to an offence committed outside of Finland which, under Finnish law, may be punishable by imprisonment for more than six months, if the State in whose territory the offence was committed has requested that charges be brought in a Finnish court or that the offender be extradited because of the offence, but the extradition request has not been granted.

Section 9 - *Corporate criminal liability*

If, under this chapter, Finnish law applies to the offence, Finnish law applies also to the determination of corporate criminal liability.

Section 10 - *Place of commission*

(1) An offence is deemed to have been committed both where the criminal act was committed and where the consequence contained in the statutory definition of the offence became apparent. An offence of omission is deemed to have been committed both where the perpetrator should have acted and where the consequence contained in the statutory definition of the offence became apparent.

(2) If the offence remains an attempt, it is deemed to have been committed also where, had the offence been completed, the consequence contained in the statutory definition of the offence either would probably have become apparent or would in the opinion of the perpetrator have become apparent.

(3) An offence by an inciter and abettor is deemed to have been committed both where the act of complicity was committed and where the offence by the offender is deemed to have been committed.

(4) If there is no certainty as to the place of commission, but there is justified reason to believe that the offence was committed in the territory of Finland, said offence is deemed to have been committed in Finland.

Section 11 - *Requirement of dual criminality*

(1) If the offence has been committed in the territory of a foreign State, the application of Finnish law may be based on sections 5, 6 and 8 only if the offence is punishable also under the law of the place of commission and a sentence could have been passed for it also by a court of that foreign State. In this event, no sanction that is more severe than what is provided by the law of the place of commission shall be imposed in Finland.

(2) Even if the offence is not punishable under the law of the place of commission, Finnish law applies to it if it has been committed by a Finnish citizen or a person referred to in section 6, subsection 3(1), and the penalty for it has been laid down in

(1) sections 5 or 6 of chapter 11, if the act is a war crime or aggravated war crime referred to in article 15 of the second protocol to the 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict or an act of participation into said acts (212/2008),

(2) sections 1-9 of chapter 15 pursuant to section 12a of said chapter,

(3) sections 1-3 of chapter 16 and even if the object of the offence is a person referred to in chapter 40, section 11, paragraph (2), (3) or (5) or a foreign public official who is in the service of the International Criminal Court,

(4) sections 13, 14 and 14a of chapter 16 and even if the provisions are applied pursuant to section 20 of the same chapter.

(5) sections 18, 18a or 19 of chapter 17,

(6) sections 6, 7 or 8a of chapter 20, (743/2006)

(7) sections 9 or 9a of chapter 20, if the act is directed at a person below the age of eighteen years, or

(8) sections 1-4 of chapter 40, if the offender is a member of Parliament, a foreign public official or a member of a foreign parliament. (650/2004)

Section 12 - *Prosecution order by the Prosecutor-General (205/1997)*

(1) A criminal case may not be investigated in Finland without a prosecution order by the Prosecutor-General, where

(1) the offence was committed abroad, or

(2) a foreigner has committed an offence on board a foreign vessel when the vessel was in Finnish territorial waters or on board a foreign aircraft when the aircraft was in Finnish air space and the offence was not directed at Finland, a Finnish citizen, a foreigner permanently resident in Finland or a Finnish corporation, foundation or other legal entity.

(2) However, the order by the Prosecutor-General is not be required, if

(1) the offence was committed by a Finnish citizen or a person who, under section 6, is equivalent to a Finnish citizen and it was directed at Finland, a

Finnish citizen, a foreigner permanently resident in Finland, or a Finnish corporation, foundation or other legal entity,

(2) the offence was committed in Denmark, Iceland, Norway or Sweden and the competent public prosecutor of the place of commission has requested that the offence be tried in a Finnish court,

(3) the offence was committed aboard a Finnish vessel while on the high seas or in territory not belonging to any State or aboard a Finnish aircraft while it was in or over such territory,

(4) the offence was committed aboard a vessel or aircraft while it was in scheduled traffic between points in Finland or between a point in Finland and a point in Denmark, Iceland, Norway or Sweden,

(5) the offence is to be tried as a criminal case in accordance with the Military Court Procedure Act (326/1983), or

(6) there is a statutory provision to the effect that the President of the Republic or Parliament is to order any charges to be brought.

Section 13 - *Foreign judgment*

(1) Charges may not be brought in Finland if a judgment has already been passed and has become final in the State where the act was committed or in another member State of the European Union and

(1) the charge was dismissed,

(2) the defendant was found guilty but punishment was waived,

(3) the sentence was enforced or its enforcement is still in progress or

(4) under the law of the State where the judgment was passed, the sentence has lapsed. (814/1998)

(2) The provisions of subsection 1 notwithstanding, the Prosecutor-General may order that the charge be brought in Finland if the judgment passed abroad was not based on a request of a Finnish authority for a judgment or on a request for extradition granted by the Finnish authorities and

(1) under section 3, the offence is deemed to be directed at Finland,

(2) the offence is an offence in public office or a military offence referred to in section 4,

(3) the offence is an international offence referred to in section 7, or

(4) pursuant to section 10, the offence is deemed to have been committed also in Finland. However, the Prosecutor-General shall not order charges to be brought for an offence that has been partially committed in the territory of that member State of the European Union where the judgment was passed. (814/1998)

[subsection 3 has been repealed; 515/2003]

Section 14 - *Reference provision*

Separate provisions apply to extradition on the basis of an offence and to other international legal assistance and to the immunity in certain cases of persons participating in court proceedings or a criminal investigation.

Section 15 - *Treaties and customary international law binding on Finland*

If an international treaty binding on Finland or another statute or regulation that is internationally binding on Finland in some event restricts the scope of application of the criminal law of Finland when compared with the provisions of this chapter, such a restriction applies as agreed. The provisions in this chapter notwithstanding, the restrictions on the scope of application of Finnish law based on generally recognized rules of international law also apply.

France

[Original: French]

Summary of the objectives and content of Act No. 2011-13 of 5 January 2011 concerning measures against piracy and the exercise of national police powers at sea

In the light of the emergence of piracy off the coast of Somalia and the active participation of France in the European Operation Atalanta, it has become necessary to update our national legal framework against piracy and, in particular, its judicial component. This Act amends the Act of 15 July 1994 concerning modalities for the exercise of national police powers at sea, which already provides for means of action by the State against crimes committed at sea, such as illicit trafficking and illegal immigration. The new legislation adds a new chapter to that Act, specifically addressing maritime piracy by referring to a number of offences relating to piracy that were already included in the Criminal Code but that have now been brought together in one instrument.

French courts, which had previously been competent only when the victim was a French national, now have quasi-universal jurisdiction under the new Act. When they deem it necessary or possible, they will now have competence to try any suspected pirate captured by French naval forces. That competence does not entail an obligation to put suspected pirates on trial in France. The French authorities can still decide whether or not to hold the trial in France, in accordance with article 105 of the United Nations Convention on the Law of the Sea, which gives the courts of the State that captured the suspected pirates the option of prosecuting them but does not impose an obligation.

The original legal framework has now been complemented with a specific procedure for the detention of persons suspected of crimes at sea, such as piracy and illicit trafficking. These persons are detained on the warships that captured them, but at that stage are still not subject to judicial proceedings in the strict sense. Any French judicial proceedings begin only once the detainees set foot on French soil and are brought before a French judge. Under the new procedure, the custodial judge takes action within 48 hours of the suspects capture in order to confirm or modify the detention measures taken on the warship pending a decision on what is

to be done with the suspects. The judge then monitors the conditions of detention until the suspects disembark. This feature is the salient point of the procedure established by the new Act.

This Act will improve the legal framework for action to combat piracy at sea, particularly off the coast of Somalia. It specifies the conditions under which French forces may take action to counter the threat, as well as the modalities for prosecution by French judges. The Act incorporates the principles set forth in the United Nations Convention on the Law of the Sea (Montego Bay Convention). By adopting this Act, France is complying with the requests of various United Nations organs, in particular the Security Council, which have called on Member States to ensure that their legal framework facilitates effective action against piracy.

Act no. 2011-13 of 5 January 2011 concerning measures against piracy and the exercise of national police powers at sea[1]

NOR: DEFX0914087L

The National Assembly and Senate have adopted,

The President of the Republic has promulgated, the following Act:

CHAPTER I

Provisions amending Act No. 94-589 of 15 July 1994 concerning modalities for the exercise of national police powers at sea

Article 1

Title I of Act No. 94-589 of 15 July 1994 concerning modalities for the exercise of national police powers at sea is hereby amended as follows:

"*Title I:*

"CONCERNING MEASURES AGAINST MARITIME PIRACY

"*Article 1.* – I. – This title applies to acts of piracy as defined in the United Nations Convention on the Law of the Sea, concluded at Montego Bay on 10 December 1982, where they are committed

"1° At sea;

"2° In maritime areas that do not fall under the jurisdiction of any State;

"3° Where provided for under international law, in the territorial waters of a State.

"II. – Where they constitute acts of piracy under article 1.I above, the offences that may be investigated, established and prosecuted under this title are as follows:

"1° The offences defined in articles 224-6, 224-7 and 224-8-1 of the Criminal Code, where they relate to at least one vessel or aircraft and involve another vessel or aircraft;

"2° The offences defined in articles 224-1 through 224-5-2 and article 224-8 of the Criminal Code where they precede, accompany or follow the offences mentioned in article 1.II.1 above;

"3° The offences defined in articles 450-1 and 450-5 of the Criminal Code where they are committed with a view to preparing the offences mentioned in articles 1.II.1 and 2 above.

"*Article 2.* – Where there are reasonable grounds to suspect that one or more of the offences mentioned in article 1.II have been or are being perpetrated, or are being prepared, on or against the vessels mentioned in article L.1521-1 of the Defence Code, commanders of Government vessels or aircraft responsible for maritime surveillance shall be entitled to conduct or have conducted inspection and coercion measures as provided for under international law, under the first part, book V, title II of the Defence Code, and under this Act. They shall act either under the authority of the Maritime Prefect — or, when overseas, the Government official responsible for State action at sea — or, in an international context, under the authority of a designated civilian or military command.

"The persons on board may be subjected to the coercive measures set forth in the first part, book V, title II, sole chapter, of the Defence Code, concerning conditions of detention on board.

"*Article 3.* – On boarding the vessel, the personnel mentioned in article 2 can take or have taken any provisional measure in respect of objects or documents apparently connected to the commission of the offences mentioned in article 1.II in order to ensure that the said offences are not perpetrated or repeated.

"They may also order that the vessel be diverted to an appropriate position or port in order to conduct such detailed examination as may be appropriate, or in order to hand over the detained individuals or the objects and documents subject to provisional measures.

"*Article 4.* – Officers of the judicial police, and - when granted special authorization under conditions determined by decree of the Council of State - commanders of Government vessels or aircraft and naval officers on such vessels responsible for maritime surveillance, shall establish the offences mentioned in article 1.II and pursue and apprehend the perpetrators or accomplices.

"They may seize objects or documents connected with the commission of the acts, proceeding, except in situations of extreme emergency, with the authorization of the public prosecutor.

"After the seizure provided for under the above paragraph, and when authorized by the public prosecutor, they may also destroy non-flagged vessels only used to commit the offences mentioned in article 1.II, acting in compliance with the international treaties and agreements in force, where no technical means are available to definitively prevent their use for a repeat offence.

"Measures taken in respect of persons on board are regulated by the first part, book V, title II, sole chapter, section 3 of the Defence Code.

"*Article 5.* – In the absence of any agreement with the authorities of another State for the latter to exercise its jurisdictional competence, the perpetrators and accomplices of the offences mentioned in article 1.II committed outside the territory of the Republic may be prosecuted and put on trial by French courts when they have been apprehended by the personnel mentioned in article 4.

"*Article 6.* – The following courts shall be responsible for the prosecution, investigation and judgment of offences under this title:

"1° On the territory of the mainland, the regional court in whose jurisdiction the maritime prefecture or the port to which the ship has been diverted is located;

"2° In overseas departments, Mayotte, Saint-Pierre-et-Miquelon, the Wallis and Futuna Islands, Saint-Barthélémy, Saint-Martin, French Polynesia, New Caledonia and the French Southern and Antarctic Lands, either the competent court of first instance in whose jurisdiction the headquarters of the Government official responsible for State action at sea are located or the court of first instance in whose jurisdiction the port to which the ship has been diverted is located;

"3° All competent courts in implementation of the Code of Criminal Procedure or a special law, in particular those mentioned in article 706-75 of the Code of Criminal Procedure.

"These courts are also competent in respect of offences related to those mentioned in this title."

Article 2

In the title of Act No. 94-589 of 15 July 1994 referred to above, insert the words "measures against piracy and" after the word "concerning".

Article 3

Articles 12 and 19 of Act No. 94-589 of 15 July 1994 referred to above are amended as follows:

1° In the first paragraph, delete the words "in addition to".

2° Delete the two last subparagraphs.

CHAPTER II

Provisions amending the Criminal Code

and Code of Criminal Procedure

Article 4

After article 224-6 of the Criminal Code, a new article 224-6-1 is inserted, as follows:

"*Article 224-6-1.* – Where the offence set forth in article 224-6 is committed by an organized gang, the penalty shall be increased to 30 years' imprisonment.

"The provisions of the first two paragraphs of article 132-23 shall apply to this offence."

Article 5

Article 706-73 of the Code of Criminal Procedure is amended as follows:

1° In paragraphs 15 and 16 insert the reference "and 17".

2° After paragraph 16, insert a new paragraph 17, as follows:

"17° The crime of hijacking an aircraft, vessel or any other means of transport when committed by an organized gang, as provided for under article 224-6-1 of the Criminal Code".

CHAPTER III

Provisions amending the Defence Code

Article 6

The Defence Code is amended as follows:

1° Article L.1521-1 is amended as follows:

(*a*) In the first line of paragraph 2, after the words "foreign vessels", insert the words "vessels without a flag or nationality".

(*b*) A new paragraph 4 is added, as follows:

"4° Vessels flying the flag of a State that has requested France's intervention or accepted its request to intervene.";

2° In the first part, book V, title II, sole chapter, a new section 3 is added as follows:

"*Section 3*

"***Measures taken in respect of persons on board vessels***

"*Article L.1521-11.* – From the time when the boarding party provided for under article L.1521-4 boards the ship that is being inspected, the personnel mentioned in article L.1521-2 can take such coercive measures as are necessary and appropriate in order to ensure the availability for questioning of the persons on board, the securing of the vessel and cargo, and the security of the persons on board.

"*Article L.1521-12.* – When measures are taken for the restriction or deprivation of liberty, the personnel mentioned in article 1521-2 shall inform the Maritime Prefect or, when overseas, the Government official responsible for State action at sea, who shall as soon as possible inform the competent public prosecutor.

"*Article L.1521-13.* – All persons subject to restriction or deprivation of liberty shall receive a health examination carried out by a qualified person within twenty-four hours of the time when the measure is imposed. A medical examination shall take place no later than ten days after the first health examination.

"A report on those examinations, including an opinion regarding the appropriateness of restriction or deprivation of liberty, shall be transmitted as soon as possible to the public prosecutor.

"*Article L.1521-14.* – Within 48 hours of the time when the restriction or deprivation of liberty referred to in article 1521-12, is imposed and at the request of the personnel mentioned in article 1521-2, the custodial judge to whom the case has been referred by the public prosecutor shall determine whether the measure may be extended for a maximum length of 120 hours from the expiration of the previous deadline.

"These measures can be renewed under the same formal and substantive conditions for the time that is needed in order to bring the person before the competent authority.

"*Article L.1521-15.* – In order to implement article 1521-14, the custodial judge may request from the public prosecutor any information that could shed light on the practical situation and health of the person subjected to restriction or deprivation of liberty.

"The custodial judge may order a new health examination.

"Unless technical reasons prevent it, the custodial judge shall, if he or she deems it useful, communicate with the person subjected to restriction or deprivation of liberty.

"*Article L1521-16.* – The custodial judge shall take decisions by reasoned orders that may not be appealed. A copy of the order shall be transmitted as soon as possible by the public prosecutor to the Maritime Prefect or, when overseas, the Government official responsible for State action at sea, who shall inform the person in question in a language that he or she understands.

"*Article L.1521-17.* – Measures in respect of persons on board a vessel may be undertaken, for the time strictly necessary, on land or on board an aircraft, under the authority of the Government agents entrusted with the transfer, under the oversight of the judicial authority as defined in this section.

"*Article L.1521-18.* – On arrival on French soil, the person subjected to coercive measures shall be handed over to the judicial authority."

CHAPTER IV

Provisions regarding the children

of the victims of acts of piracy at sea

Article 7

Children whose father, mother or breadwinner of French nationality has been the victim of acts of maritime piracy can be recognized as wards of the nation under the conditions set forth in title IV of book III of the Code of Military Pensions for Invalidity and War Victims.

These provisions shall apply to the victims of acts of maritime piracy committed from 10 November 2008.

CHAPTER V

Final provisions

Article 8

This Act shall apply throughout the territory of the Republic.

This Act shall be implemented as a law of the State.

Done at Paris, on 5 January 2011.

[Signatures omitted]

Footnote:
(1) Preparatory work: Act No. 2011-13.
Senate:
Bill No. 607, as corrected (2008-2009);
Report by Mr. André Dulait on behalf of the Foreign Affairs Committee, No. 369 (2009-2010);
Committee Text No. 370 (2009-2010);
Discussed and adopted on 6 May 2010 (Adopted Text No. 99, 2009-2010).
National Assembly:
Bill No. 2502, adopted by the Senate;
Report by Mr. Christian Ménard on behalf of the Defence Committee, No. 2937;
Discussed and adopted on 25 November 2010 (Adopted Text No. 563).
Senate:
Bill No. 134, amended by the National Assembly (2010-2011);
Report by Mr. André Dulait on behalf of the Foreign Affairs Committee, No. 151 (2010-2011);
Committee Text No. 152 (2010-2011);
Discussed and adopted on 22 December 2010 (Adopted Text No. 48, 2010-2011).

Georgia

[Original: English]

Piracy is criminalized under article 228 of the Criminal Code of Georgia, which reads as follows:

"Article 228. Piracy

1. Piracy, i.e., attack on ship or other swimming vessel with an aim of unlawful appropriation of other's possession, committed through violence or a threat of violence, shall be punished by deprivation of liberty from seven to ten years;

2. Same act;

(a) Committed on multiple occasions;

(b) Resulting in termination of human life or other severe consequences;

Shall be punishable by deprivation of liberty from ten to fifteen years."

Moreover, the crime of piracy may be cumulatively charged together with another offence under the Criminal Code, if the elements of the offence are sufficiently present to suggest the separate criminal intent expressed in relation to or within the context of the commission of the crime of piracy.

Georgia's domestic legal provisions regulating mutual legal assistance and cooperation in criminal matters, as well as respective bilateral and multilateral treaties to which Georgia is a party, fully provide the Government with the necessary legal framework enabling its involvement in investigation and further prosecution of persons suspected of piracy.

Germany

[Original: English]

I. Measures taken to criminalize piracy under domestic law and to prosecute and support the prosecution of individuals suspected of piracy off the coast of Somalia and imprisonment of convicted pirates

Piracy in domestic legislation

Section 316c of the German Criminal Code (Strafgesetzbuch, StGB) contains i.a. the crime of an attack on maritime traffic:

"Section 316c StGB

Attacks on air and maritime traffic

(1) Whosoever

uses force or attacks the freedom of decision of a person or engages in other conduct in order to gain control of, or influence the navigation of

(a) an aircraft employed in civil air traffic which is in flight; or

(b) a ship employed in civil maritime traffic; or

uses firearms or undertakes to cause an explosion or a fire, in order to destroy or damage such an aircraft or ship or any cargo on board shall be liable to imprisonment of not less than five years. An aircraft which has already been boarded by members of the crew or passengers or the loading of the cargo of which has already begun or which has not yet been deboarded by members of the crew or passengers or the unloading of the cargo of which has not been completed shall be equivalent to an aircraft in flight.

(2) In less serious cases the penalty shall be imprisonment from one to ten years.

(3) If by the act the offender at least by gross negligence causes the death another person the penalty shall be imprisonment for life or not less than ten years.

(4) Whosoever in preparation of an offence under subsection (1) above produces, procures for himself or another, stores or supplies to another firearms, explosives or other materials designed to cause an explosion or a fire shall be liable to imprisonment from six months to five years."

Germany has jurisdiction in accordance with the principle of universal jurisdiction in cases where the crime of an attack on maritime traffic has been committed pursuant to section 316c StGB, See section 6 (3) StGB:

"Section 6 StGB

Offences committed abroad against internationally protected legal interests

German criminal law shall further apply, regardless of the law of the locality where they are committed, to the following offences committed abroad: [. . .]

(3) attacks on air and maritime traffic (section 316c)."

Prosecution of individuals suspected of piracy off the coast of Somalia

In Germany, responsibility for criminal prosecution lies with public prosecutors. Pursuant to section 152 (2) of the Code of Criminal Procedure (*Strafprozessordnung*, StPO), public prosecutors are obliged to institute proceedings in response to all punishable criminal offences to the extent that sufficient factual indications exist. In the case of offences committed abroad such as piracy off the coast of Somalia, public prosecutors may be able to waive prosecution of the offence in accordance with the provisions of section 153c StPO.

In the event that criminal prosecution is taken up, the Federal Government supports the public prosecutors with requests for legal assistance, e.g. in obtaining evidence from foreign authorities.

Investigations in piracy-related crimes are currently being carried out by four different German public prosecutor's offices. These investigations depend to a large extent on international cooperation. German public prosecutors closely cooperate with European and other counterparts in this area.

Ten persons who have been arrested by Dutch military officials on the high seas off the coast of Somalia are currently facing trial at the District Court of Hamburg. They have been accused of an attack on maritime traffic and other crimes. Criminal proceedings started in November 2010. Due to the particular circumstances of the cases, the hearings are expected to continue over an extended period of time.

II. Further measures aiming at supporting the prosecution of individuals suspected of piracy off the coast of Somalia and imprisonment of convicted pirates

Contributions to the counter-piracy programme of the United Nations Office on Drugs and Crime

- Germany provided initial funding in May 2009 to the counter-piracy programme of the United Nations Office on Drugs and Crime, aiming at supporting efforts of States in the region to detain and prosecute piracy suspects according to international standards of rule of law and respect for human rights.
- Bilateral funding amounts to approximately 1.9 million USD.
- Further funding was provided in 2011. Additional funding has been provided by the European Union.

Participation in the Contact Group on Piracy off the Coast of Somalia

- Germany is a founding member of the Contact Group on Piracy off the Coast of Somalia established in January 2009 and participates actively in all of its five Working Groups, including in Working Group 2 on legal questions.
- Germany has been a lead nation in creating the Trust Fund to Support the Initiatives of States to Counter Piracy off the Coast of Somalia in 2009. Germany has been a member of the Board of Trust Fund since 2010 and as such, participates in the consideration and selection of projects in the areas of prosecution and detention-related activities.

- Germany made a contribution of 1 million USD to the Trust Fund in 2009.

Efforts to establish jurisdiction and cooperation in the investigation and prosecution of piracy:

- As a member of the Contact Group on Piracy off the Coast of Somalia, Germany continues to participate in the work of Working Group 2 of the Contact Group to enhance international cooperation in the investigation and prosecution of piracy.

- As a member state of the European Union, Germany supports all efforts to enhance cooperation by the European Union in the investigation and prosecution of piracy (e.g. the latest transfer agreement by the European Union with Mauritius).

- Germany supports the criminal justice programme of the United Nations Office on Drugs and Crime in East Africa and is currently contributing 120,000 USD towards strengthening the public prosecution sector in Kenya.

III. Background information: Further efforts in the international fight against piracy

Participation in European Union Operation Atalanta

- Germany has been participating in Operation Atalanta since its inception in December 2008. The German Parliament recently extended the national mandate by 12 months until December 2012.

- Main tasks include: providing protection to World Food Programme vessels transporting food aid to the population in need in Somalia and to vessels of the African Union Mission in Somalia (AMISOM). Atalanta also provides protection, on a case by case basis, to the most vulnerable vessels sailing in the Gulf of Aden and off the Somali Coast.

- Germany has consistently provided at least one helicopter-equipped warship and, periodically, maritime patrol and reconnaissance aircrafts to Atalanta. Also, Germany delegated the Force Commander in the region from August through December 2011 and has nominated the Deputy Commander of Operation Atalanta to European Union headquarters from January to July 2012.

Efforts aiming at stabilizing Somalia and tackling the root causes of piracy

- Participation in European Union Training Mission to Somalia:

  o Main tasks include: contributing to a sustainable perspective for the development of the Somali security sector by strengthening the Somali security forces through the provision of specific military training, and support to the training provided by Uganda of 2,000 Somali recruits.

  o Germany has contributed 14 military personnel (trainers and staff) to the training mission to Somalia since May 2010.

  o The third intake of Somali security forces started training in early November 2011.

- Support for AMISOM including:

  o Contributions to the African Union through the European Union;

  o Assessed contributions to the United Nations Support Office for the African Union Mission in Somalia;

  o Voluntary contributions to the AMISOM Trust Fund totalling 2.5 million euros;

  o Provision of materiel in 2010/2011 worth approximately 3.58 million euros.

- Training for AMISOM Police force in 2009.

Furthermore, Germany provides humanitarian assistance to Somalia, both bilaterally and through the European Union.

Greece

[Original: English]

The Greek legislation contains several provisions concerning piracy as a criminal offence punishable under domestic Greek law. The relevant provisions are as follows:

1. Article 8 of the Greek Penal Code, which provides that Greek Penal laws apply to nationals and aliens, irrespective of the laws of the forum State, inter alia, with regard to acts of piracy.

2. Article 215 of the Code of Public Maritime Law, which reads as follows:

"1. Piracy is committed by whomever, being on board a ship, by physical force or threat thereof which is exercised against another person or persons, engages in acts of depredation against another ship on the high seas for the purpose of taking possession of property thereon.

2. Pirate ship is considered any ship used for the purposes mentioned above or which has been used for such purposes, and still being under the control of pirates.

3. Anyone committing the piracy acts mentioned in paragraph 1 of this Article is punishable to a sentence of at least 5 years. The same sentence is imposed upon the captain and the officers of the pirate ship. Those of the crew who are in the knowledge of the aims of such ship are punishable by a sentence not exceeding 10 years."

Ireland

[Original: English]

Pursuant to s. 2 of the Maritime Security Act 2004, the following acts, done unlawfully and intentionally, are offences in Irish law:

- seizing or exercising control over a ship or fixed platform by force or threat of force or any other form of intimidation;

- performing an act of violence against a person on board a ship or fixed platform if that act is likely to endanger the safe navigation of the ship or the safety of the fixed platform;
- destroying a ship or fixed platform;
- causing damage to a ship or its cargo which is likely to endanger its safe navigation;
- injuring or killing any person in connection with doing any of the above acts; and
- threatening to endanger the safe navigation of a ship by doing any of the above acts with the aim of compelling a person to do or not to do any other act.

A person guilty of any of these offences is liable, on conviction on indictment, to imprisonment for life.

The full text of the 2004 Act is available electronically at the following link: www.irishstatutebook.ie/2004/en/act/pub/OO29/index.html.

MARITIME SECURITY ACT 2004

AN ACT TO GIVE EFFECT TO THE UNITED NATIONS CONVENTION FOR THE SUPPRESSION OF UNLAWFUL ACTS AGAINST THE SAFETY OF MARITIME NAVIGATION, DONE AT ROME ON 10 MARCH 1988, AND TO THE PROTOCOL FOR THE SUPPRESSION OF UNLAWFUL ACTS AGAINST THE SAFETY OF FIXED PLATFORMS LOCATED ON THE CONTINENTAL SHELF, DONE AT ROME ON THAT DATE. [19TH JULY 2004]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

1.— Interpretation.

(1) In this Act, unless the context otherwise requires—

"act" includes omission and a reference to doing an act includes a reference to making an omission;

"Convention" means the Convention for the suppression of unlawful acts against the safety of maritime navigation, done at Rome on 10 March 1988;

"Convention state" means a state (other than the State) which is a state party to the Convention or Protocol;

"fixed platform" means an artificial island installation or structure permanently attached to the sea-bed for the purpose of exploration or exploitation of resources or for other economic purposes and located within an area designated under section 2 of the Continental Shelf Act 1968;

"Irish ship" means a ship, as so defined in section 9 of the Mercantile Marine Act 1955, wherever situate;

"master", in relation to a ship, means the person having for the time being the command or charge of the ship;

"Protocol" means the Protocol for the suppression of unlawful acts against the safety of fixed platforms located on the continental shelf, done at Rome on 10 March 1988;

"ship" means a vessel of any type not permanently attached to the sea-bed, including dynamically supported craft, submersibles or any other floating craft, but does not include—

(*a*) a warship,

(*b*) a ship owned or operated by a state when being used as a naval auxiliary or for customs or police purposes, or

(*c*) a ship which has been withdrawn from navigation or laid up,

and in relation to a ship which is not an Irish ship, means such a ship which is in the territorial seas of the State.

(2) References in this Act to a member of the Defence Forces are references to such a member acting at the request of a member of the Garda Síochána not below the rank of inspector.

(3) For convenience of reference the texts of the Convention and Protocol in the English language are set out in *Schedules 1* and *2*.

(4) In this Act—

(*a*) a reference to a section or Schedule is to a section of, or Schedule to, this Act,

(*b*) a reference to a subsection, paragraph or subparagraph is to the subsection, paragraph or subparagraph of the provision in which the reference occurs, and

(*c*) a reference to any other enactment is to that enactment as amended by or under any other enactment (including this Act).

2. —Offences.

(1) A person who unlawfully and intentionally does any of the following acts is guilty of an offence:

(*a*) seizing or exercising control over a ship or fixed platform by force or threat of force or any other form of intimidation;

(*b*) performing an act of violence against a person on board a ship or fixed platform if that act is likely to endanger the safe navigation of the ship or the safety of the fixed platform;

(*c*) destroying a ship or fixed platform;

(*d*) causing damage—

(i) to a ship or its cargo which is likely to endanger its safe navigation, or

(ii) to a fixed platform which is likely to endanger its safety:

(*e*) placing or causing to be placed on a ship or fixed platform, by any means, a device or substance which is likely to—

(i) destroy the ship or fixed platform, or

(ii) cause the damage referred to in *paragraph (d)*;

(*f*) destroying or seriously damaging maritime navigational facilities or seriously interfering with their operation, if the destruction, damage or interference is likely to endanger the safe navigation of a ship;

(*g*) endangering the safe navigation of a ship by communicating information which the person knows to be false;

(*h*) injuring or killing any person in connection with doing any of the acts mentioned elsewhere in this subsection;

(*i*) with the aim of compelling a person to do or not to do any act, threatening to endanger the safe navigation of a ship by doing any of the acts mentioned elsewhere in this subsection;

(*j*) attempting to do any of the acts mentioned in this subsection.

(2) A person guilty of an offence under this section is liable on conviction on indictment to imprisonment for life.

3.—Extra-territorial jurisdiction.

(1) *Section 2(1)* applies to an act done outside the State in relation to a ship or a fixed platform if it is done—

(*a*) by any person on board or against an Irish ship,

(*b*) by a citizen of Ireland on board or against a ship (other than an Irish ship) or a fixed platform, or

(*c*) subject to *subsection (2)*, by a person who is not a citizen of Ireland on board or against a ship (other than an Irish ship) or a fixed platform.

(2) In the case of an act done in the circumstances mentioned in *subsection (1)(c)*, the Director of Public Prosecutions may not take, or consent to the taking of, proceedings for an offence in respect of that act except as authorised by *section 7(4)*.

(3) In this section—

"fixed platform" and "ship" mean a fixed platform and ship which are outside the State;

"outside the State" means—

(*a*) in relation to a fixed platform, outside an area designated under section 2 of the Continental Shelf Act 1968, and

(*b*) in relation to a ship, outside the territorial seas of the State.

4.—Power of arrest and detention.

(1) A member of the Garda Síochána or Defence Forces may arrest without warrant anyone whom the member, with reasonable cause, suspects to be guilty of an offence under *section 2*.

(2) Where a member of the Garda Síochána or Defence Forces suspects, with reasonable cause, that a person who is about to board, or is on board, a ship or fixed platform intends to commit an offence under *section 2* on or in relation to that ship or fixed platform, the member may—

(*a*) prevent the person from boarding the ship or fixed platform or from travelling on board the ship,

(*b*) without warrant board the ship or fixed platform and remove the person from it, or

(*c*) without warrant arrest the person.

(3) The master of a ship or a person for the time being in charge of a fixed platform may arrest and detain any person whom he or she, with reasonable cause, believes to be guilty of an offence under *section 2*.

(4) Such a person may be so detained only until he or she can be delivered to—

(*a*) a member of the Garda Síochána or Defence Forces, or

(*b*) the appropriate authorities of a Convention state.

(5) A person arrested by or delivered to a member of the Defence Forces under this section shall be delivered by him or her to a member of the Garda Síochána as soon as practicable and shall thereupon be treated as a person arrested without warrant by a member of the Garda Síochána unless the person is brought as soon as practicable after such delivery before a judge of the High Court under the Extradition Acts 1965 to 2001 or the European Arrest Warrant Act 2003.

(6) In accordance with Article 7.1 of the Convention a judge of a court before whom such a person is brought shall, in considering any application for bail, take into account the need to ensure the person's presence in the State for such time as is necessary to enable any proceedings against the person to be instituted, including proceedings under any of the enactments referred to in *subsection (5)*.

(7) In considering a request for the surrender of such a person to a Convention state the High Court shall, in accordance with Article 11.6 of the Convention, pay due regard to whether the person's rights as set out in Article 7.3 thereof can be given effect to in that state.

(8) References in this section to Articles 7.1, 7.3 and 11.6 of the Convention are to be construed, as appropriate, as references to those provisions as applied by Article 1 of the Protocol.

(9) A master of a ship or person for the lime being in charge of a fixed platform is not liable to—

(*a*) conviction in any criminal prosecution, or

(*b*) damages in any civil proceeding,

brought in respect of any action reasonably taken by either of them under this Act against any other person.

5.—Delivery of detained person to authorities in Convention state.

(1) A master of a ship may deliver to the appropriate authorities of a Convention state any person detained by him or her under section 4.

(2) A master of a ship who intends so to deliver such a person shall notify the authorities concerned of his or her intention to do so and the reasons for such delivery.

(3) The notification must be given whenever practicable and if possible, before the ship enters the territorial seas of the Convention state.

(4) On delivery of a person under *subsection (1)* the master shall—

(*a*) make to the appropriate authorities of the Convention state such oral or written statements relating to the alleged offence as they may reasonably require, and

(*b*) give them any other evidence in his or her possession relating to that offence.

(5) A master who, without reasonable excuse, does not comply with *subsection (3)* or *(4)* is guilty of an offence and liable—

(*a*) on summary conviction, to a fine not exceeding €3,000 or imprisonment for a term not exceeding 12 months or both, or

(*b*) on conviction on indictment, to a fine or imprisonment for a term not exceeding 5 years or both.

6.—Search.

(1) A member of the Garda Síochána or Defence Forces may search without warrant a ship or fixed platform on which the member, with reasonable cause, believes—

(*a*) that an offence under *section 2* has been committed, or

(*b*) that a person who has committed such an offence is on the ship or fixed platform,

and may—

(i) remove any object which the member believes is related to such an offence, and

(ii) remove or take copies of any records or extracts from records which may be so related.

(2) A person who obstructs or attempts to obstruct a member of the Garda Síochána or Defence Forces while searching a ship or fixed platform is guilty of an offence and liable on summary conviction to a fine not exceeding €3,000 or imprisonment for a term not exceeding 12 months or both.

(3) Such a member may arrest without warrant any person who is committing an offence under *subsection (2)*.

(4) In *subsection (1)(ii)* "records" includes information in non-legible form which is capable of being converted into legible form.

7.—Proceedings.

(1) Proceedings for an offence under *section 2* in respect of an act done outside the State may be taken in any place in the State and the offence may for all incidental purposes be treated as having been committed in that place.

(2) Such an offence shall be tried by the Central Criminal Court.

(3) Where a person is charged with such an offence, no further proceedings in the matter (other than a remand in custody or on bail) shall be taken except by or with the consent of the Director of Public Prosecutions.

(4) The Director of Public Prosecutions may take, or consent to the taking of, further proceedings against a person for such an offence—

(*a*) if it is done in the circumstances mentioned in *paragraph (a)* or *(b)* of *section 3(1)*, or

(*b*) if it is done in the circumstances mentioned in *section 3(1)(c)* and the Director is satisfied –

(i) in case a request for the person's surrender for the purpose of trying him or her for such an offence has been made by a Convention state under Part II of the Extradition Act 1965, that the request has been finally refused (whether as a result of a decision of a court or otherwise),

(ii) in case a European arrest warrant has been received for the person's arrest for the purpose of bringing proceedings against him or her for such an offence in a Convention state that is a member state of the European Communities, that a final determination has been made under the European Arrest Warrant Act 2003, whether by refusal of the High Court to endorse the warrant or otherwise under that Act, that the person should not be surrendered to the state concerned, or

(iii) in any other case, that, because of special circumstances (including, but not limited to, the likelihood of the person not being surrendered in the circumstances mentioned in subparagraph (i) or (ii)), it is expedient that proceedings be taken against the person for such an offence.

(5) In *subsection (4)(b)(ii)* "European arrest warrant" has the meaning given to it by section 2(1) of the European Arrest Warrant Act 2003.

8.—Evidence.

(1) In any proceedings relating to an offence under *section 2* a certificate purporting to be signed by an officer of the Department of Foreign Affairs and certifying that—

(*a*) a passport was issued by the Department to a specified person on a specified date, and

(*b*) to the best of the officer's knowledge and belief, the person has not ceased to be an Irish citizen,

is admissible in any proceedings, without further proof, as evidence that the person was an Irish citizen on the date on which the offence under *section 2* with which the person is charged was committed, unless the contrary is shown.

(2) A certificate purporting to be signed by the Director of Public Prosecutions or by a person authorised by the Director in that behalf and stating any of the matters specified in *paragraph (a)* or *(b)* of *section 7(4)* is evidence of the facts stated in the certificate, unless the contrary is shown.

(3) A document purporting to be a certificate under *subsection (1)* or *(2)* is deemed, unless the contrary is shown—

(*a*) to be such a certificate.

(*b*) to have been signed by the person purporting to have signed it, and

(*c*) in the case of a certificate under subsection (2) purporting to be signed by a person authorised by the Director of Public Prosecutions in that behalf, to have been signed by such a person.

9.—Double jeopardy.

A person who has been acquitted or convicted of an offence outside the State shall not be proceeded against for an offence under section 2 for the act which constituted the offence of which the person was acquitted or convicted.

10.—Amendment of Criminal Procedure Act 1967.

The Criminal Procedure Act 1967 is amended—

(*a*) in section 13(1), by inserting "or the offence of killing or attempted killing under *paragraph (h)* or *(j)* of *section 2(1)* of the *Maritime Security Act 2004*" after "the offence of murder under section 2 of the Criminal Justice (Safety of United Nations Workers) Act 2000, or an attempt or conspiracy to commit that offence," (inserted by section 7 of the said Act of 2000), and

(*b*) in section 29(1), by inserting the following paragraph after paragraph *(i)* (inserted by the said section 7):

"*(j)* the offence of killing or attempted killing under *paragraph (h)* or *(j)* of *section 2(1)* of the *Maritime Security Act 2004*.".

11.—Amendment of Extradition (Amendment) Act 1994.

The First Schedule to the Extradition (Amendment) Act 1994 is amended by adding the following after paragraph 14:

"*Maritime security offences*

14A. Any offence under *section 2* of the *Maritime Security Act 2004*."

12.—Amendment of Bail Act 1997.

The Schedule to the Bail Act 1997 is amended by inserting the following after paragraph 22:

"*Maritime security offences*

22A.—Any offence under *section 2* of the *Maritime Security Act 2004*."

13.—Expenses.

The expenses incurred in the administration of this Act shall, to such extent as may be sanctioned by the Minister for Finance, be paid out of moneys provided by the Oireachtas.

14.—Short title.

This Act may be cited as the Maritime Security Act 2004.

SCHEDULE 1

Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, done at Rome on 10 March 1988

[The text of the Convention contained in Schedule 1 is available in United Nations, *Treaty Series*, vol. 1678, No. 29004, and online at http://treaties.un.org/doc/Publication/UNTS/Volume%201678/v1678.pdf]

SCHEDULE 2

Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf, done at Rome on 10 March 1988

[The text of the Protocol contained in Schedule 2 is available in United Nations, *Treaty Series*, vol. 1678, No. 29004, and online at http://treaties.un.org/doc/Publication/UNTS/Volume%201678/v1678.pdf]

EXPLANATORY AND FINANCIAL MEMORANDUM

[*This Memorandum is not part of the Act and does not purport to be a legal interpretation*]

Introduction

The purpose of this Act is to give effect to the **United Nations Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (1988)** and the **Protocol** to that Convention **for the Suppression of Unlawful Acts against the Safety of Fixed Platforms on the Continental Shelf (1988)**, the text of which was laid before Dáil Éireann and Seanad Éireann on 11 November 2003 and is set out in *Schedules 1* and *2* to the Act.

The Convention and Protocol are among a suite of international instruments against terrorism which Member States of the United Nations are enjoined, by Security Council resolution 1373 (2001) of 28 September 2001, to implement as soon as possible. **The terms of the Convention and Protocol were approved by Dáil Éireann pursuant to Article 29.5.2° of Bunreacht na hÉireann on 25 May 2004** and the Act was enacted to enable Ireland to be a party to them.

The Act creates specific offences against the safety of Irish ships and other ships which are in Irish territorial waters and against fixed platforms on the Continental Shelf (subject to imprisonment for life on conviction on indictment), and consequentially provides, on standard lines, for extra-territorial jurisdiction to cover offences committed outside the State in breach of the Convention or Protocol, the apprehension and detention of alleged offenders and handing them over to the appropriate authorities, extradition, bail, avoidance of double jeopardy and other necessary matters, on the model of provisions of the Criminal Justice (Terrorist

Offences) Bill 2002 which makes necessary provision in relation to four other international conventions against terrorism.

Provisions of Act

Section 1 provides, on standard lines, for the definition of certain terms and expressions used in the Act.

Subsection (2) makes it clear, that any Defence Forces' involvement under the Act is only to be in aid of the civil power, at the request of a member of the Garda Síochána of at least inspector rank.

Section 2 gives effect to Article 3.1 of the Convention and Article 2.1 of the Protocol by outlawing specified acts which are mentioned therein (*subsection (1)*), and also to Article 5 of the Convention (which applies *mutatis mutandis* to the acts outlawed by the Protocol) by prescribing a penalty of imprisonment for life on conviction on indictment for doing any such acts (*subsection (2)*).

Both the 1988 Convention and Protocol thereto outlaw "aiding or abetting" the commission of unlawful acts specified therein. Section 7 of the Criminal Law Act 1997 (No 14) provides that any person who aids, abets, counsels or procures the commission of an indictable offence (such as those provided for in this section) is liable to be indicted, tried and punished as a principal offender. There is therefore no need to make separate provision for those acts in this section.

Section 3 is designed to prevent offenders escaping jurisdiction by giving *section 2* of the Act extra-territorial application.

***Subsection (1)* extends *section 2* of the Bill to cover unlawful acts done outside the State by any person on board or against an Irish ship, or by a citizen of Ireland on or against any non-Irish ship or fixed platform, or by a person who is not a citizen of Ireland but is found in the State.**

***Subsection (2)* restricts the Director of Public Prosecutions in consenting to or taking court proceedings in relation to unlawful acts done outside the State — on or against non-Irish ships or fixed platforms — by a person who is not a citizen of Ireland but is found in the State.**

***Subsection (3)* defines "outside the State" for the purposes of this section as meaning outside the territorial seas of the State (as defined by the Maritime Jurisdiction Acts 1959 to 1988) or outside an area designated under section 2 of the Continental Shelf Act 1968 (No. 18).**

Section 4 makes provision for the arrest of alleged offenders and their detention until they can be duly brought before a court in the State or handed over to the appropriate authorities of another Convention state.

Subsection (1) empowers a member of the Garda Síochána (or a member of the Defence Forces acting in aid of the civil power) to arrest an alleged offender without warrant.

Subsection (2) supplements *subsection (1)* by empowering a member of the Garda Síochána (or a member of the Defence Forces acting in aid of the civil power) to prevent a suspected intending offender from boarding a ship or fixed platform or remove that person from the ship or fixed platform or arrest that person without warrant.

Subsection (3) mirrors *subsection (1)* by empowering the master of the ship concerned or person in charge of the fixed platform concerned to arrest and detain an alleged offender until such time (as required by *subsection (4)*) as the alleged offender can be delivered to a member of the Garda Síochána or Defence Forces, or to the appropriate authorities of another Convention state.

Subsection (5) requires the delivery to a member of the Garda Síochána of any alleged offender delivered to a member of the Defence Forces under *subsection (4)* **or arrested by a member of the Defence Forces under this section**.

Subsections (6), (7) and *(8)* give effect to particular requirements of the Convention (articles 7.1, 7.3 and 11.6) and Protocol (article 1.1 which applies the said articles of the Convention *mutatis mutandis* to the Protocol).

Subsection (6) ensures that the court before which an alleged offender is brought shall, when considering an application for bail, take into account the need to ensure the person's presence in the State for such time as is necessary to enable any extradition or other proceedings to be brought.

Subsection (7) obliges the court to pay due regard to whether the rights of the person in question can be given effect to in the state requesting the extradition of that person, namely, the right to

(*a*) communicate without delay with the nearest appropriate representative of the state of which that person is a national or which is otherwise entitled to establish such communication or, if that person is a stateless person, the state in the territory of which that person has his or her habitual residence, and

(*b*) be visited by a representative of that state.

Subsection (8) makes it clear that subsections (6) and (7) apply *mutatis mutandis* to the Protocol as they apply to the Convention.

Subsection (9) is a necessary exemption from any liability for any master of a ship or person in charge of a fixed platform who acts in a reasonable way under this Act.

Section 5 makes provision in relation to the handing over by the master of a ship to the appropriate authorities of another Convention state of persons detained under *section 4* of the Act.

Subsection (1) is the main provision. It authorizes the master of the ship in question to deliver to the appropriate authorities of another Convention state an alleged offender detained under *section 4* of the Act. The remainder of the section elaborates on requirements to be observed by such a master in such cases.

Subsection (2) requires the master of the ship concerned to notify the appropriate authorities of the Convention state in question of the intended handing-over of the alleged offender and the reasons for so doing while

Subsection (3) requires that notification be given as soon as it is practicable to do so and, if possible, before the ship in question enters the territorial seas of the Convention state in question.

Subsection (4) requires the master of the ship in question to provide the appropriate authorities of the Convention state in question with any relevant

statements they may reasonably require and such other evidence as the master of the ship in question may possess in relation to the alleged offence.

Subsection (5) is designed to ensure that the master of the ship concerned meets the requirements of *subsections (3)* and *(4)*, except where it is not reasonable to do so, by making unreasonable failure by the master of the ship concerned an offence subject to the potentially severe penalties set out in *subsection (5)*.

Section 6 clearly provides for the search by a member of the Garda Síochána (or member of the Defence Forces in aid of the civil power) of any ship or fixed platform on which it is alleged that an offence under this Act has been committed, or on which there is a person who is alleged to have committed such an offence.

Subsection (1) is the main provision. It provides for search by a member of the Garda Síochána (or member of the Defence Forces in aid of the civil power) of such a ship or fixed platform and for the removal of any object or records related to the alleged offence.

Subsection (2) outlaws obstruction of a search authorized by *subsection (1)* by making such obstruction an offence subject to a fine not exceeding **€3,000** and/or imprisonment for a term not exceeding 12 months.

Subsection (3) empowers the arrest without warrant of any person who obstructs a search under *subsection (1)*.

Subsection (4) ensures that electronically-held information capable of being converted into legible form can be obtained by search under this section.

Section 7 makes provision for court proceedings in the State under this Act for alleged offences committed outside the State.

Subsection (1) provides that court proceedings for such offences may be brought anywhere in the State.

Subsection (2) appoints the Central Criminal Court as the court to try any offences under *section 2* of the Act (as extended by *section 3* of the Act), because of the gravity of such offences.

Subsection (3) makes it clear that it is for the Director of Public Prosecutions to determine what if any further proceedings (that is in addition to remand in custody or on bail) are to be brought in the State against persons alleged to have committed an offence outside the State, subject to *subsection (4)*.

Subsection (4) allows the Director of Public Prosecutions to take, or consent to the taking of, further proceedings in the State against a person for an offence in respect of an act done outside the State where, for example, extradition of the alleged offender to another Convention state was refused or is likely to be refused, or because of special circumstances it is considered expedient to bring court proceedings in the State against the alleged offender.

Subsection (5) defines "European Arrest Warrant" for the purposes of this section.

Section 8 ensures the admissibility of certain official certificates in court proceedings in the State for offences under *section 2* of the Act (as extended by *section 3* of the Act). A certificate issued by an officer of the Department of Foreign Affairs could state if an Irish passport was issued to a specified person on a

specified date and that that person was believed to continue to be an Irish citizen. A certificate signed by or on behalf of the Director of Public Prosecutions would relate to any act committed outside the State in respect of which court proceedings in the State are brought by or with the consent of the Director of Public Prosecutions, because extradition of the alleged offender to another Convention state was refused or is likely to be refused, or because it is considered expedient to bring court proceedings in the State against the alleged offender in respect of an act committed outside the Stat .

Section 9 is designed to ensure that, insofar as the State is concerned, where a person has been acquitted or convicted outside the State of an offence for doing any act specified in *section 2* of the Act (as extended by *section 3* of the Act), that person cannot be proceeded against for the corresponding offence in the State also.

Section 10 provides that a person charged with the offence of murder or attempted murder contrary to *section 2* of the Act (as extended by *section 3* of the Act) may not, on a plea of guilty, be dealt with summarily in the District Court or sent forward for sentence, and that in such cases applications for bail must go to the High Court.

Section 11 ensures that, for extradition purposes, offences under *section 2* of the Act (as extended by *section 3* of the Act) will not be regarded as political offences.

Section 12 ensures that offences under *section 2* of the Act (as extended by *section 3* of the Act) will be considered to be serious offences for bail purposes. The Bail Act 1997 (No. 16) provides that bail may be refused to a person charged with a serious offence where it is considered necessary to prevent the commission of a serious offence. Serious offences are defined by reference to the Schedule to that Act which *section 12* of this Act amends to include offences under *section 2* of this Act (as extended by *section 3* of this Act).

Section 13 is a standard provision for Exchequer funding of any expenses incurred in administering the Act.

Section 14 is a standard provision giving the short title of the Act, for ease of reference.

Financial Implications

Exchequer expenditure could arise from mutual assistance, extradition of alleged offenders and other requirements of the 1988 Convention and Protocol. While such expenditure is unlikely to be significant, Dáil approval of the terms of the 1988 Convention and Protocol was specifically required by Article 29.5.2° of Bunreacht na hÉireann (**approval given on 25 May 2004**), as well as enactment of this Act.

Italy

[Original: English]

Italian legislation on piracy and prosecution pursuant to Security Council resolution 2015 (2011)

Art. 5, para. 4-6 bis, of Law 12 of 24 February 2009 and amendments

4. Crimes under articles 1135 and 1136 of the Navigation Code and related crimes pursuant to Art. 12 of the Code of Criminal Procedure are punished pursuant to art. 7 of the Criminal Code and jurisdiction is assigned to the Court of Rome in case they are committed against the State of Italy, Italian citizens or Italian assets, in the high seas or in the territorial waters of another country and in case it is ascertained that the said crimes were committed in the area where the mission mentioned in art. 3, para. 14, takes place.

5. In case of arrest without a warrant, detention or interrogation of persons in pretrial detention for crimes under para. 4, if and when operational needs do not allow for the timely appearance of the arrested or detained before the judiciary, art. 9, para. 5 and 6 of Decree-law No. 421 of 1 December 2001, as amended by Law no. 6 of 31 January 2002, applies. The arrested or detained person can be held in a designated area of a military carrier.

6. After a seizure, the judiciary may entrust custody of the ship or aircraft captured through acts of piracy to the ship owner or his agent.

6-bis. With the exception of cases pursuant to para. 4, the jurisdiction shall be determined according to international agreements. Pursuant to Joint Action 2008/851/PESC of the Council of 10 November 2008, and to Decision 2009/293/PESC of the Council of 26 February 2009, the measures pursuant to art. 2, para. 1, letter e) of said Joint Action are authorized as well as the detention on board of military carriers of persons who have committed or are suspected to have committed acts of piracy, for the time strictly necessary for their transfer pursuant to art. 12 of the Joint Action. It is allowed to adopt said measures if provided for by counter-piracy agreements. It is also allowed to detain persons on board of military carriers if said agreements are stipulated by international organizations and Italy is one of their members.

Art. 5, para. 1-5 ter, Law 130 of 2 August 2011 regarding urgent counter-piracy measures (Law 130 enacts the Decree-law 12 July 2011, No. 107)

1. The Ministry of Defence, as a part of the international counter-piracy efforts and in order to ensure the freedom of navigation of national merchant shipping, may sign with the Italian private owners associations and with other subjects with specific powers of representation of that category framework agreements for the protection of vessels flying the Italian flag in transit in international sea areas at risk of piracy - designated by the Ministry of Defence upon consultations with the Ministry of Foreign Affairs and the Ministry of Infrastructures and Transportations, taking into consideration periodic reports by the International Maritime Organization – by embarking, at the request and with burden on the owners, Military Protection Detachments (*Nuclei Militari di Protezione*) of the Italian Navy

which may avail itself of personnel from other armed forces in order to fulfil the task.

2. Military personnel which is part of the Military Protection Detachment referred to under para. 1 operates in compliance to the directives and the rules of engagement issued by the Ministry of Defence. The Commandant of each team, which has the exclusive responsibility for the military contrast to piracy, and the subordinate personnel are designated respectively as law enforcement officer and law enforcement auxiliaries in respect of the crimes listed in articles 1135 and 1136 of the Navigation Code and all those crimes linked to the former ones under the provision of article 12 of the Criminal Procedure Code (...omissis....).

3. The owner of the vessel under protection referred to in para. 1 shall refund the costs, including the cost for the personnel and the cost of operations as defined in the agreement referred to in para. 1, by the income chapter of the State budget in order to be reallocated to the estimates of expenditure of the Ministry of Defence (...omissis....).

4. In the context of international efforts for counter-piracy and the participation of military personnel in the operations referred to in article 4, para. 13 of this decree, and also in conjunction with the European Union Joint Action 2008/851/PESC of the Council, of 10 November 2008, and awaiting the approval of the guidelines of the Maritime Safety Committee of the United Nations within the International Maritime Organization (IMO), it is authorized — whereas the detachments referred to in para. 1, are not established — and in any case within the limits established in paras. 5, 5-bis, 5-ter, the employment of "sworn guards", authorized under articles 133 and 134 of the Unified law text on Public Security, approved with Royal Decree 18 of June 1931, No. 773, on board merchant ships flagged in Italy transiting in international waters referred to in para. 1, for the protection of the said ships.

5. The employment referred to under para. 4 is allowed exclusively on board ships equipped for defence against acts of piracy, through the implementation of at least one of the means mentioned in the «best management practices» for the self-protection of shipping developed by IMO, and authorized to carry arms under para. 5-bis, through sworn guards to be recruited preferably among those having military experience, eventually as volunteers, and have attended one of the theory and practical courses mentioned in the implementing of the Ministry of Interior 15 September 2009, n. 154, adopted in order to implement article 18 of the law decree 27 July 2005, n. 144, converted with modifications by the law 31 July 2005, n. 155.

5-bis. The personnel referred to in para. 4, while fulfilling their service in accordance with para. 5 and within the limits of international waters, may use the weapons which are part of the equipment of the ship, upon prior authorization by the Ministry of Interior to the ship owner under article 28 of the unified text for public security approved with Royal decree of 18 June 1931, No. 773. Authorization is granted by the Ministry of Interior heard the Ministry of Defence and the Ministry of Infrastructure and Transportation, for the purchase of arms, transportation and cession of arms in fiduciary trust to the personnel mentioned under para. 4.

5-ter. A decree of the Ministry of the Interior agreed with the Ministry of Defence and the Ministry of Infrastructures and Transportation, within 60 days from the

entry into force of the law this decree, will detail the measures for the implementation of paras. 5, 5-bis and 5-ter to include the purchase, transport and fiduciary cession of the arms detained on board, their ammunition, the quantity as well as the relationship between the personnel mentioned in comma 4 and the Masters.

Jamaica

[Original: English]

1. The Government of Jamaica has not passed legislation to specifically address piracy and armed robbery at sea.

2. Jamaica is party to the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, 1998, which has been incorporated into the Terrorism Prevention Act, 2005.

3. This Act criminalizes piratic offences such as endangering or creating a serious likelihood of endangering the safe navigation of a ship. The legislation also covers inchoate offences and imposes a maximum sanction of life sentence.

Kazakhstan

[Original: Russian]

Article 240 of the Criminal Code of the Republic of Kazakhstan, which comprises three parts, criminalizes piracy, understood as an attack against a seagoing or river vessel with the intention of seizing property, carried out with the use or threat of use of force. Part 1 of the article sets the penalty at 5-10 years' deprivation of liberty.

Under part 2, acts of piracy characterized by recidivism, use of weapons or use of objects as weapons, are punishable by 8-12 years' deprivation of liberty with confiscation of property.

Under part 3, when the acts described in parts 1 and 2 have been carried out by an organized group, resulting in an inadvertent loss of life or other grave consequences, the penalty is 10-15 years' deprivation of liberty with confiscation of property.

Thus, legislative steps have been taken with regard to counter-piracy efforts and the transfer of convicted pirates, rendering unnecessary any further legislative measures.

In keeping with article 192 of the Code of Criminal Procedure, the investigation of offences contrary to article 240 of the Criminal Code is solely within the purview of the National Security Committee of the Republic of Kazakhstan.

To date, no inquiries concerning individuals suspected of piracy off the coast of Somalia or requests for legal assistance in support of their prosecution have been received by Kazakhstan.

Kuwait

[Original: English]

1) Kuwaiti Law #15 of 1986 approved Kuwait's joining of the United Nations Convention on the Law of the Sea, 1982, thus, the State of Kuwait became committed to the provisions in the Convention concerning combating the crime of piracy.

2) Article 252 of Kuwaiti Law #16 of 1960, stipulates maximum penalty of life imprisonment with possible payment of a fine as a punishment for all those who attack a vessel in the high seas with the purpose to seize that vessel, or the goods it is carrying, or to harm any person on board. Should such an attack on a vessel lead to the death of one or more persons on board, the attacker or attackers will face the death penalty, while the other two punishments shall apply if the act itself has been carried out on the high seas by a passenger of the vessel itself.

3) The State of Kuwait is currently undertaking all the necessary actions to implement the contents of the items of the relevant Security Council resolutions concerning piracy that occur of the coast of Somalia.

Latvia

[Original: English]

Latvian criminal law criminalizes piracy under the domestic law:

Section 176. Robbery

(3) For a person who commits robbery, if it is committed on a large scale, or committed by a person who has previously committed robbery or extortion or been engaged in gangsterism or committed seizure of air or water transport vehicles, or such has been committed in an organized group, or who commits the robbery of narcotic, psychotropic, powerfully acting, poisonous or radioactive substances, or explosive substances, firearms or ammunition, the applicable punishment is deprivation of liberty for a term of not less than eight years and not exceeding 15 years, with confiscation of property, and police supervision for a term not exceeding three years.

Additionally, Latvian criminal law provides specific article on seizure of water transport:

Section 268. Seizure of an Air or Water Transport Vehicle

(1) For a person who commits seizing an air or water transport vehicle, except vehicles of small dimensions, on the ground, in water or during a flight, the applicable punishment is deprivation of liberty for a term of not less than five and not exceeding 15 years.

(2) For a person who commits the same acts, if commission thereof is by a group of persons pursuant to prior agreement or involves violence or threats of violence, or an accident or other serious consequences are caused thereby, the applicable punishment is deprivation of liberty for a term of not less than 10 and not exceeding 17 years.

(3) For a person who commits acts provided for in paragraphs one and two of this Section, if the death of a human being is caused thereby, the applicable punishment is deprivation of liberty for a term of not less than 12 and not exceeding 20 years.

With regard to the jurisdiction, Article 4 of the Criminal Law provides general principles:

Section 4. Applicability of The Criminal Law Outside the Territory of Latvia

(1) Latvian citizens, non-citizens and foreigners who have a permanent residence permit for the Republic of Latvia, shall be held liable, in accordance with this Law, in the territory of Latvia for an offence committed in the territory of another State or outside the territory of any State regardless of whether it has been recognised as criminal and punishable in the territory of commitment.

(2) Soldiers of the Republic of Latvia who are located outside the territory of Latvia shall be held liable for criminal offences in accordance with this Law, unless it is provided otherwise in international agreements binding upon the Republic of Latvia.

(3) Foreigners who do not have permanent residence permits for the Republic of Latvia and who have committed serious or especially serious crimes in the territory of another State which have been directed against the Republic of Latvia or against the interests of its inhabitants, shall be held criminally liable in accordance with this Law irrespective of the laws of the State in which the crime has been committed, if they have not been held criminally liable or committed to stand trial in accordance with the laws of the state where the crime was committed.

(4) Foreigners who do not have a permanent residence permit for the Republic of Latvia and who have committed a criminal offence in the territory of another State, in the cases provided for in international agreements binding upon the Republic of Latvia, irrespective of the laws of the State in which the offence has been committed, shall be held liable in accordance with this Law if they have not been held criminally liable for such offence or committed to stand trial in the territory of another State.

Lebanon

[Original: Arabic]

1. Definition of maritime piracy:

Maritime piracy is the seizure by the crew or passengers of one ship of the crew or passengers of another ship with the aim of commandeering the ship; stealing the goods on board; or sinking the vessel or its cargo for the purpose of material gain.

Current instances of maritime piracy are considered to be occasioned by criminal organizations, because they are well planned and organized and professionally conducted. They are not national crimes and aim to acquire profit illegitimately.

2. Lebanese legal provisions to suppress maritime piracy:

Fully aware of the significance of and dangers posed by maritime piracy, the Lebanese legislature has provided rigorous penalties for those guilty of carrying out acts of piracy or imperilling maritime navigation. Those severe penalties include a life term of imprisonment with hard labour and in some cases may extend to a capital sentence.

In that regard, the Lebanese Penal Code provides as follows:

Article 641. Penalties:

Anyone who illegally takes over, by any means, a vessel that is anchored or under way or the goods it carries shall be liable to a fixed term of hard labour. Pursuant to article 258 of the Penal Code, the sentence imposed on the captain of the vessel will be more severe if he is the perpetrator of the crime, an accomplice thereto, or an instigator thereof.

The captain may also be permanently banned from the exercise of the profession, and that ban may also be extended to the other perpetrators, accomplices to, or instigators of the crime if their profession is related to maritime navigation or trade.

Article 642. Penalties:

A life sentence of hard labour shall be pronounced if the crime was committed by two or more armed persons, who used arms or threatened to use them; or if violence was used when the crime was committed.

A capital sentence shall be pronounced if the crime led to the sinking of the vessel or the death of any passenger from terror or any other cause connected to the incident.

3. International instruments related to the suppression of maritime piracy:

Lebanon became a party to the Rome Convention of 10 March 1988, the aim of which is to suppress illegal acts against the safety of maritime navigation.

4. Efforts exerted by Lebanon in the field of the suppression of maritime piracy:

In its modern history, Lebanon has no experience of maritime piracy in its territorial waters, along its coastline or within its ports and harbours, other than certain acts of maritime piracy that have been committed by the naval forces of the Israeli enemy, which were directed against Lebanese fishing vessels inside Lebanese territorial waters. In addition, Lebanese journalists and human rights activists were abducted by the Israeli navy from one of the vessels in the Gaza Freedom Flotilla led by the Turkish ship Mavi Marmara in 2010.

With a view to ensuring the safety of maritime navigation, the naval force of the United Nations Interim Force in Lebanon conducts its maritime patrols of the Lebanese coastline and territorial waters in coordination with the naval component of the Lebanese Armed Forces.

No criminal act of pure maritime piracy off the Lebanese coast has been recorded, with the exception of the above-mentioned Israeli military piracy, nor has

the arrest of any Lebanese or other national been registered in connection with crimes of maritime piracy off the Somali coast.

Liechtenstein

[Original: English]

Crimes relating to maritime piracy can be subsumed under general crimes enumerated in the Liechtenstein Criminal Code (e.g. murder, deprivation of liberty, physical injury or traffic in human beings).

These crimes are punishable in Liechtenstein if they are also punishable by the law applicable at the place of the crime (double incrimination rule) and if the perpetrator is either a Liechtenstein national or is caught on Liechtenstein territory and cannot be extradited for a reason other than the nature or feature of his act. For crimes committed on the high seas the double incrimination rule does not apply; incrimination under Liechtenstein law is sufficient (Article 65 of the Criminal Code).

Provided that Liechtenstein interests have been violated or the perpetrator cannot be extradited the Liechtenstein criminal laws are applicable for special crimes (e.g. kidnapping or slave traffic) regardless of the law applicable at the place of crime. Furthermore, Liechtenstein criminal laws are applicable if an international treaty contains the obligation to prosecute (Article 64 of the Criminal Code). Crimes committed on board a Lichtenstein vessel can be prosecuted wherever the vessel is located (Section 63 of the Criminal Code).

Lithuania

[Original: English]

Presently the Criminal Code of the Republic of Lithuania does not specifically define piracy. Instead, it provides for several definitions of crimes that share common characteristics with piracy, such as: robbery (Article 180), hijacking of an aircraft, ship or fixed platform on a continental shelf (Article 251), hostage taking (Article 252). The English version of the Criminal Code can be found at the following link: www3.lrs.lt/pls/inter3/dokpaieska.showdoc_e?p_id=366707&p_query=&p_tr2=2.

Recent analysis, carried out by the competent Lithuanian authorities, revealed that this fragmented approach does not fully cover the definition of piracy as provided for in Article 101 and other related provisions of the United Nations Convention on the Law of the Sea. Therefore, a new Article 252[1] of the Criminal Code dealing entirely with acts of piracy has been drafted and is planned to be introduced to the legislature at the earliest opportunity. A current version of draft Article 252[1] reads as follows (unofficial translation):

"Article 252[1]. Piracy

1. A member of a crew or a passenger of a private ship or a private aircraft who, seeking to take possession over another's property, on the high seas or on other territory outside the jurisdiction of any State, unlawfully detains another ship or aircraft, person, group of persons or another's property on board such ship or

aircraft, or uses physical or mental coercion against such person or group of persons, shall be punished by imprisonment for a term of four up to eight years.

2. A member of a crew of a warship, government ship or government aircraft who has mutinied and taken control of the ship or aircraft, or has participated in such mutiny, and commits the act provided for in paragraph 1 of this Article, or a person who commits the act provided for in paragraph 1 of this Article by using a firearm, explosive or another means posing a threat to a person's life or health, shall be punished by imprisonment for a term of six up to ten years.

3. A person who commits the acts provided for in paragraphs 1 and 2 of this Article, where this causes grave consequences, shall be punished by imprisonment for a term of 10 up to 20 years or by life imprisonment.

4. A person who uses a ship or an aircraft while being aware that it has been used to commit the acts provided for in paragraphs 1, 2 and 3 of this Article and the ship or aircraft is in the possession of persons who have committed the acts, shall be punished by arrest or by imprisonment for a term of up to five years.

5. A legal entity shall also be held liable for the acts provided for in this Article."

Malta

[Original: English]

CRIMINAL CODE

Sub-title IV B

OF PIRACY

328N. Definition of piracy. Added by: XI.2009.7.

(1) For the purposes of this subtitle "piracy" means any of the following acts:

(*a*) any illegal acts of violence or detention, or any act of depredation, committed for private ends by the crew or passengers of a private ship or a private aircraft, and directed:

(i) on the high seas, against another ship or aircraft, or against persons or property on board such ship or aircraft;

(ii) against a ship, aircraft, persons or property in a place outside the jurisdiction of any State;

(*b*) any of the acts referred to in paragraph (*a*) committed by the crew or passengers of a warship, government ship or government aircraft whose crew has mutinied and taken control of the ship or aircraft;

(*c*) any act of voluntary participation in the operation of a ship or of an aircraft with knowledge of facts making it a pirate ship or aircraft:

(*d*) any act of inciting or of knowingly facilitating an act described in paragraph (*a*) or (*b*) or (*c*).

(2) For the purposes of this Title, a ship or aircraft is considered a pirate ship or aircraft if it is intended by the persons in dominant control to be used for the purpose of committing one of the acts referred to in subarticle (1) or if the ship or aircraft has been used to commit any such act and the ship or aircraft remains under the control of the person guilty of that act.

(3) Any person guilty of piracy under this article shall be liable:

(*a*) where the offence consists in any of the acts referred to in subarticle (1)(*a*) and (*b*) when accompanied with the loss of life of any person, to the punishment of imprisonment for life;

(*b*) where the offence consists in any of the acts referred to in (1)(*a*) and (*b*) then not accompanied with the loss or life of any person, to the punishment of imprisonment not exceeding 30 years;

(*c*) where the offence consists in any act referred to in subarticle (1)(*c*), to the punishment of imprisonment for a term not exceeding eight years;

(*d*) where the offence consists in any act referred to in subarticle (1)(*d*), to the punishment laid down for the act incited or facilitated.

328O. Jurisdiction. ***Added by: XI.2009.7***

(1) Without prejudice to the provisions of article 5, the Maltese courts shall also have jurisdiction over the offences laid down in this article where the offence is committed:

(*a*) by any citizen of Malta or permanent resident in Malta;

(*b*) by any person while on board any ship, vessel or aircraft belonging to Malta;

(*c*) by any person against any ship, vessel or aircraft belonging to Malta or against the person or property of any citizen of Malta or permanent resident in Malta.

(2) For the purposes of this article a ship, vessel or aircraft shall be deemed to belong to Malta in the same circumstances mentioned in article 5(2).

Mauritius

[Original: English]

Despite its limited resources, Mauritius is committed to combating piracy which continues to be a major threat to regional and international peace and security. In this regard, with the assistance of international agencies, organizations and partner countries, Mauritius has adopted a set of measures to effectively combat the spread of piracy in the Indian Ocean off the Somali coast.

On 13 December 2011, we adopted the Piracy and Maritime Violence Act which provides a proper and adequate legal framework for the prosecution of suspected pirates in Mauritius (a copy of the Act is attached). Its main objectives are to provide or make better provision for:

(i) the prosecution of piracy and related offences pursuant to the obligations of Mauritius under the United Nations Convention n the Law of the Sea, 1982;

(ii) the handing over to Mauritius of persons suspected of having committed acts of piracy, maritime attack and related offences, pursuant to agreements or arrangements with the European Union or other States, for the purposes of investigation and prosecution;

(iii) admissibility, with leave of the Court, of an out of Court statement in criminal proceedings under this Act, where the maker of the statement is not available to give evidence; and

(iv) the repatriation of non-citizens suspected of having committed offences, or the transfer of persons convicted of offences, under this Act.

On 14 July 2011, Mauritius signed an Agreement with the European Union defining the conditions and the modalities for the transfer of suspected pirates for investigation, prosecution, trial and detention in Mauritius, transfer of associated property seized and the treatment of such persons.

With the assistance provided by the European Union, through the United Nations Office on Drugs and Crime, auxiliary infrastructural works at the Prison, the Supreme Court and the Police Department and capacity-building programmes for the police and the judiciary, which constitute actions in the short term, have been initiated. These actions will allow the Mauritius authorities to handle the first cases of piracy until the completion of major infrastructure works as envisaged in the long-term project that includes the construction of a dedicated prison for pirates.

The relevant Mauritius authorities, with the assistance of the United Nations Office on Drugs and Crime, are also in the process of finalizing guidelines for the transfer of suspected pirates. The document will set out the procedures to be followed by warships apprehending pirates who may be transferred to Mauritius for eventual prosecution. Furthermore, capacity-building programmes have been conducted in a number of fields such as revision of legislation, training of investigators and prosecutors, investigative and judicial procedures.

Moreover, given the capacity constraints of Mauritius and on humanitarian grounds, Mauritius is considering the possibility of concluding agreements with the Somali authorities for the repatriation and transfer of sentenced pirates. In this regard, Ambassador T. Winkler, Chairperson of the Working Group on Legal Issues (Working Group 2) of the Contact Group on Piracy off the Coast of Somalia will be visiting Mauritius from 11 to 13 January 2012 to advise and assist in the drafting of post-trial transfer agreements with the Transitional Federal Government of Somalia, Somaliland and Puntland.

At the regional level, Mauritius hosted the Second Regional Ministerial Conference on Piracy in October 2010 during which a regional strategy and a regional plan of action were adopted to combat piracy and promote maritime security in the short term, medium and long terms. The focus is now on the implementation of the regional strategy and plan of action to be implemented over a period of 15 years. The plan is costed at around 25 million Euros to be implemented by the Intergovernmental Authority on Development, the Common Market for

Eastern and Southern Africa, the East African Community and the Indian Ocean Commission with the assistance of the European Union and other partners.

In line with decisions taken during that Regional Meeting, the Indian Ocean Commission is setting up a Counter-Piracy Unit in the Republic of the Seychelles to improve coordination of activities of countries in the region on piracy issues as well as exchanging information. I am pleased to inform that Mauritius will be deputing a representative to work in the Counter-Piracy Unit.

Mauritius strongly believes that a solution to the scourge of piracy in the Indian Ocean requires political stability in Somalia. We, therefore, welcome the keen and personal interest of the Secretary-General of the United Nations in the matter and express our full support to him.

[...] Mauritius [...notes...] the following updates:

(i) The high-level participation of Mauritius at the London Conference on Somalia on 23 February 2012 and the informal preliminary discussions held in the margin of the Conference with the delegation from Somalia for concluding agreements with Somali authorities for the repatriation and the transfer of convicted pirates to their country of origin;

(ii) The Piracy and Maritime Violence Act has been proclaimed and it will come into effect on 1 June 2012; and

(iii) The first trial and prosecution of suspected pirates in Mauritius is expected as from the beginning of June 2012.

THE PIRACY AND MARITIME VIOLENCE ACT 2011

Act No. 39 of 2011

[...]

ARRANGEMENT OF SECTIONS

Section

1. Short title
2. Interpretation
3. Piracy and maritime attack
4. Hijacking and destroying ships
5. Endangering safe navigation
6. Master's power of delivery
7. Jurisdiction
8. Arrangements for handing over and transfer of suspected persons
9. Forfeiture
10. Regulations
11. Consequential amendments
12. Commencement

An Act

To provide a comprehensive framework for prosecuting in Mauritius persons suspected of having committed piracy and related offences

ENACTED by the Parliament of Mauritius, as follows –

1. Short title

This Act may be cited as the Piracy and Maritime Violence Act 2011.

2. Interpretation

In this Act –

"Court" means the Supreme Court or the Intermediate Court, as the case may be;

"Director of Shipping" has the same meaning as in the Merchant Shipping Act;

"EEZ" [exclusive economic zone] has the same meaning as in the Maritime Zones Act;

"forfeiture order" means an order made by the Court under section 9;

"high seas" –

(a) has the same meaning as in the United Nations Convention on the Law of the Sea (UNCLOS); and

(b) includes the EEZ;

"maritime zones", "territorial sea", "'internal waters", "archipelagic waters" and "historic waters" have the same meaning as in the Maritime Zones Act;

"master" has the same meaning as in the Merchant Shipping Act;

"Minister" means the Minister to whom responsibility for the subject of home affairs is assigned;

"pirate ship or aircraft" has the same meaning as in UNCLOS;

"ship" includes every description of watercraft, including non-displacement craft, WIG [wing-in-ground-effect] craft and seaplanes, used or capable of being used as a means of transportation over water;

"UNCLOS" means the United Nations Convention on the Law of the Sea, which has force of law pursuant to section 3 of the Maritime Zones Act, and Articles 100 to 107 of which are set out in the Schedule;

"warship" has the same meaning as in UNCLOS.

3. Piracy and maritime attack

(1) Any person who commits –

(a) an act of piracy; or

(b) a maritime attack,

shall commit an offence and shall, on conviction, be liable to penal servitude for a term not exceeding 60 years.

(2) A police officer may –

(a) on the high seas or in the territorial sea, or the internal, historic and archipelagic waters of Mauritius; or

(b) in any other place outside the jurisdiction of a State,

stop, board, search, detain or seize a pirate ship or aircraft, or a ship or aircraft taken by and under the control of pirates, arrest any person suspected of having committed an offence under this Act and seize any property on board which is suspected to have been used in connection with the commission of an offence under this Act, and may use such force as may be necessary for that purpose.

(3) In this section –

"act of piracy" means –

(a) an illegal act of violence or detention, or any act of depredation for private ends by the crew or the passengers of a private ship or a private aircraft, and directed –

(i) on the high seas against another ship, or aircraft, or persons or property on board such ship or aircraft, as the case may be; or

(ii) against a ship, aircraft, persons or property on board the ship or aircraft, as the case may be, in a place outside the jurisdiction of a State;

(b) any act of voluntary participation in the operation of a ship or of an aircraft, with knowledge of facts making it a pirate ship or aircraft; or

(c) any act of inciting or of intentionally facilitating an act described in paragraph (a) or (b);

"maritime attack" means –

(a) an illegal act of violence or detention, or any act of depredation for private ends by the crew or the passengers of a private ship or a private aircraft, and directed -

(i) against persons or property on board a ship or aircraft, as the case may be; or

(ii) against a ship or aircraft, as the case may be; or

(b) any act of inciting or of intentionally facilitating an act described in paragraph (a),

within the territorial sea or the internal, historic and archipelagic waters of Mauritius.

4. Hijacking and destroying ships

(1) Subject to subsection (4), a person who unlawfully, by the use of force or by threats of any kind, seizes a ship or exercises control of it, shall commit the offence of hijacking a ship.

(2) Subject to subsection (4), a person shall commit an offence where he unlawfully and wilfully –

(a) destroys a ship;

(b) damages a ship or its cargo so as to endanger, or to be likely to endanger, the safe navigation of the ship;

(c) does, on board a ship, an act of violence which is likely to endanger the safe navigation of the ship; or

(d) places or causes to be placed on a ship any device or substance which is likely to destroy the ship or is likely to so damage it or its cargo as to endanger its safe navigation.

(3) Subject to subsection (4), subsections (1) and (2) shall apply –

(a) whether the ship referred to in those subsections is in Mauritius or elsewhere;

(b) whether any act referred to in those subsections is committed in Mauritius or elsewhere; and

(c) irrespective of the nationality of the person doing the act.

(4) Subsections (1) and (2) shall not apply in relation to any warship or any other ship used as a naval auxiliary or in customs or police service, or any act committed in relation to such a warship or such other ship, unless –

(a) the person seizing or exercising control of the ship under subsection (1), or doing the act under subsection (2), as the case may be, is a Mauritius citizen;

(b) the act is committed in Mauritius; or

(c) the ship is used in the service of the Mauritius Police Force, in Mauritius.

(5) Any person who commits an offence under this section shall, on conviction, be liable to penal servitude for a term not exceeding 60 years.

5. Endangering safe navigation

(1) Subject to subsection (7), any person who –

(a) destroys or damages any property to which this subsection applies; or

(b) interferes with the operation of any such property,

shall, where the destruction, damage or interference is likely to endanger the safe navigation of a ship, commit an offence.

(2) Subsection (1) applies to any property used for the provision of maritime navigation facilities, including any land, building, ship, apparatus or equipment so used, whether it is on board a ship or elsewhere.

(3) (a) Subject to subsection (7), any person who intentionally communicates information which he knows to be false in a material particular, where the communication of the information endangers the safe navigation of a ship, shall commit an offence.

(b) It shall be a defence for a person charged with an offence under paragraph (a) to prove that, when he communicated the information, he was lawfully employed to perform duties which consisted of, or included, the communication of

information and that he communicated the information in good faith in performance of those duties.

(4) A person who, in order to compel any other person to do or abstain from doing any act, threatens that he or some other person will do, in relation to a ship, an act which is an offence by virtue of section 4(2)(a), (b) or (c), where the making of that threat is likely to endanger the safe navigation of the ship, shall commit an offence.

(5) Subject to subsection (7), a person who, in order to compel any other person to do or abstain from doing any act, threatens that he or some other person will do an act which is an offence by virtue of subsection (1), where the making of that threat is likely to endanger the safe navigation of a ship, shall commit an offence.

(6) Except as provided by subsection (7), subsections (1), (3), (4) and (5) shall apply whether any act referred to in those subsections is committed in Mauritius or elsewhere and whatever be the nationality of the person committing the act.

(7) For the purposes of subsections (1), (3) and (5), any danger, or likelihood of danger, to the safe navigation of a warship or any other ship used as a naval auxiliary or in customs or police service, shall be disregarded unless –

(a) the person committing the act is a Mauritius citizen;

(b) the act is committed in Mauritius; or

(c) the ship is used in the service of the Mauritius Police Force.

(8) It shall be an offence for any person in Mauritius to induce or assist the commission, outside Mauritius, of any act which would but for –

(a) section 4(4), be an offence under that section; or

(b) subsection (7), be an offence under this section.

(9) Any person who commits an offence under this section shall, on conviction, be liable to penal servitude for a term not exceeding 60 years.

6. Master's power of delivery

(1) Where the master of a ship, wherever that ship may be, and whatever the State, if any, in which it may be registered, has reasonable ground to believe that any person on board the ship has –

(a) committed any offence under section 3, 4 or 5;

(b) attempted to commit such an offence; or

(c) aided, abetted, counselled, facilitated, procured or incited the commission of such an offence,

in relation to any ship, other than a warship or other ship used as a naval auxiliary, he may deliver that person to the Commissioner of Police in Mauritius or to the proper officer in any other Convention State.

(2) Where the master of a Mauritius ship intends to deliver any person in Mauritius or any other Convention State in accordance with subsection (1), he shall

notify the Director of Shipping, if the delivery is to be in Mauritius or, if delivery is to be in another Convention State, to the proper officer in that State –

(a) of his intention to deliver that person; and

(b) of his reasons for intending to do so.

(3) A notification under subsection (1) shall be given –

(a) before the ship has entered the Exclusive Economic Zone of Mauritius or the other State concerned; or

(b) if, in the circumstances, it is not reasonably practicable to comply with paragraph (a), as soon as reasonably practicable, but not later than 72 hours in advance, before the ship enters the territorial waters of Mauritius.

(4) Where the master of a Mauritius ship delivers any person to the Commissioner of Police in Mauritius or to the proper officer in any other State under subsection (1), he shall –

(a) make to the Commissioner of Police, if the person is to be delivered in Mauritius, or, if the person is to be delivered in another State, to a proper officer in that State, such oral or written statements relating to the alleged offence as the Commissioner of Police or that officer, as the case may be, may reasonably require; and

(b) deliver to the Commissioner of Police or the appropriate officer, as the case may be, such other evidence relating to the alleged offence as is in his possession.

(5) In this section –

"Convention State" means a State in which the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation 1988 is in force.

7. Jurisdiction

(1) Notwithstanding any other enactment, prosecution for an offence under this Act shall, at the sole discretion of the Director of Public Prosecutions, take place before a Judge without a jury or the Intermediate Court.

(2) Notwithstanding any other enactment, the Intermediate Court shall have jurisdiction to inflict penal servitude for a term not exceeding 40 years where a person is convicted of an offence under this Act.

8. Arrangements for handing over and transfer of suspected persons

(1) The Minister may enter into an agreement or arrangement with another Government or an international organisation with a view to providing for –

(a) a framework for the handing over of persons suspected of having committed offences under this Act to Mauritian authorities for purposes of investigation and eventual trial in Mauritius;

(b) the repatriation of persons referred to in paragraph (a) where they are not prosecuted or convicted in Mauritius, and the post-trial transfer of persons convicted of offences under this Act; and

(c) any related matter.

(2) Notwithstanding any other enactment, an agreement or arrangement entered into under subsection (1) shall have effect, in relation to the –

(a) pre-trial or post-trial transfer of any person suspected of having committed any offence under this Act;

(b) trial of persons suspected of having committed an offence under this Act.

(3) The agreement entered into with the European Union for the transfer of suspected pirates on 14 July 2011 shall be deemed to have been made under subsection (1).

9. Forfeiture

(1) Where a person is convicted of an offence under section 3, 4 or 5, the Court shall make an order that any ship, mode of conveyance or property, used in, or in connection with, the commission of such offence, be forfeited to the State, unless the owner of the ship, mode of conveyance or property or the person legally entitled to its possession establishes, to the satisfaction of the Court, that the ship, mode of conveyance or property was used in or in connection with the commission of the offence without his knowledge or connivance.

(2) Any ship, mode of conveyance or property forfeited by an order made under subsection (1), shall vest absolutely in the State.

(3) The vesting shall take effect where –

(a) no appeal has been made from the conviction or forfeiture order within the statutory time limit, on the expiration of the delay for such appeal;

(b) an appeal has been made against the conviction or forfeiture order, upon the final determination of such appeal affirming or upholding the forfeiture order.

(4) Where any ship, mode of conveyance or property is vested in the State by an order made under subsection (1), the Court shall cause such ship, conveyance or property to be sold by public auction and the proceeds of the sale shall be credited to the Consolidated Fund.

(5) This section shall be in addition to and not in derogation from the Court's powers to order the estreatment or forfeiture of any property in pursuance of its power under any other enactment.

10. Regulations

The Minister may, for the purposes of this Act, make such regulations as he thinks fit, including regulations for giving effect to an agreement or arrangement entered into under section 8.

11. Consequential amendments

(1) The Courts Act is amended –

(a) by repealing section 134;

(b) in section 161B, by adding, after the words "sexual case", the words "or any witness in relation to an offence under the Piracy and Maritime Violence Act 2011";

(c) in sections 181B, 181C and 181E, by adding the words "in civil proceedings";

(d) by inserting, after section 188B, the following new section –

188C. Admissibility of out of Court statement in piracy cases where maker is unavailable

(1) In any criminal proceedings under the Piracy and Maritime Violence Act 2011, a statement made out of Court shall be admissible as evidence, with leave of the Court, of any matter stated when –

(a) oral evidence given in the proceedings by the person who made the statement would be admissible as evidence of that matter;

(b) the person who made the statement is identified to the Court's satisfaction; and

(c) one of the 5 conditions specified in subsection (2) is satisfied.

(2) The conditions referred to in subsection (1)(c) are that the person who made the statement –

(a) is dead;

(b) is unfit to be a witness because of his bodily or mental condition;

(c) is outside Mauritius and it is not reasonably practicable to secure his attendance;

(d) cannot be found although such steps as is reasonably practicable to take to find him have been undertaken; or

(e) through fear, does not give or does not continue to give oral evidence in the proceedings, either at all or in connection with the subject matter of the statement.

(3) Where a statement is admitted in evidence under subsection (1) any evidence which, if that person had been called as a witness, could have been admissible for the purpose of impeaching or supporting his credibility, shall be admissible for that purpose.

(4) In assessing the weight, if any, to be attached to a statement admitted in evidence under subsection (1), the Court shall have regard to all the circumstances from which any inference can reasonably be drawn as to its accuracy or otherwise.

(2) The Criminal Procedure Act is amended, in the Fifth Schedule, by inserting, in the appropriate alphabetical order, the following item –

Piracy and Maritime Violence Act 2011;

(3) The Deportation Act is amended in section 2, in the definition of "prohibited immigrant", by adding, after the word "immigration", the words "or who has been transferred to Mauritius under the Piracy and Maritime Violence Act 2011".

(4) The Merchant Shipping Act is amended –

(a) by repealing sections 213 to 216;

(b) in section 224 –

(i) in subsection (1), by inserting, after the words "in the course of any", the word "civil";

(ii) in subsection (2), by repealing paragraph (c), the semicolon and the word "and" at the end of paragraph (b) being deleted and replaced by a full stop.

(5) The Mutual Assistance in Criminal and Related Matters Act is amended, in section 2, by deleting the definition of "foreign state" and replacing it by the following definition –

"foreign State" –

(a) means a State other than Mauritius, and every constituent part of such State, including a territory, dependency, protectorate, which administers its own laws relating to international cooperation; and

(b) includes a foreign Government or international organization with which Mauritius has entered into an agreement under the Piracy and Maritime Violence Act 2011;

(6) The National Coast Guard Act is amended –

(a) in section 6(1), in paragraph (c), by inserting, after the words "illegal activity", the words ", including any act of piracy or maritime attack referred to in the Piracy and Maritime Violence Act 2011";

(b) in section 12(1), in paragraphs (h) and (i), by inserting, after the words "illegal activity", the words ", including any act of piracy or maritime attack referred to in the Piracy and Maritime Violence Act 2011".

(7) The Police Act is amended, in section 9, by inserting, after subsection (1), the following subsection –

(1A) The Police Force may exercise any of the duties referred to in subsections (1)(b), (c) and (k) in the maritime zones of Mauritius and, for the purposes of the Piracy and Maritime Violence Act 2011, in the high seas.

12. Commencement

(1) Subject to subsection (2), this Act shall come into operation on a date to be fixed by Proclamation.

(2) Different dates may be fixed for the coming into operation of different sections of this Act.

Passed by the National Assembly on the thirteenth day of December two thousand and eleven.

[signature omitted]

SCHEDULE

United Nations Convention on the Law of the Sea

[The text of articles 100-107 of the United Nations Convention on the Law of the Sea, contained in the Schedule, is available in United Nations, *Treaty Series*, vol. 1833, No. 31353, and online at www.un.org/Depts/los/convention_agreements/convention_overview_convention.htm.]

Netherlands

[Original: English]

Criminalization and prosecution of piracy in the Netherlands

Dutch criminal law on piracy

Article 4 (5) of the Dutch Criminal Code establishes universal jurisdiction over the crime of piracy as defined in articles 381 to 385 of the Criminal Code.

Article 381

1. Anyone who:

1°. enlists as or serves as a master of a vessel, knowing that the vessel is intended for, or using it for the commission of acts of violence on the high seas against other vessels or against persons or property on board such other vessels, without having been authorised to do so by a belligerent power and without belonging to the navy of a recognised power, is guilty of piracy and liable to a term of imprisonment not exceeding twelve years or a fifth-category fine;

2°. knowing of such intention or use, enlists as a crew member on such a vessel, or voluntarily remains in service as a crew member after learning of such intention or use, is guilty of piracy and liable to a term of imprisonment not exceeding nine years or a fifth-category fine.

2. Exceeding any authorisation or possessing authorisations issued by powers at war with each other is equated with the absence of authorisation.

3. Article 81 does not apply.

4. The provisions of the previous paragraphs concerning a master and a crew member apply mutatis mutandis to captains and crew members of aircraft. The term "vessel" includes "aircraft" and "on the high seas" includes "in the airspace above the high seas".

Article 382

If an act of violence as defined in article 381 results in the death of any person on board the vessel or aircraft attacked, the master of the vessel or the captain of the

aircraft and those persons who participated in the act of violence are liable to a term of imprisonment not exceeding fifteen years or a fifth-category fine.

Article 383

Any person who equips a vessel or aircraft for the purpose defined in article 381 at their own expense or at the expense of another is liable to a term of imprisonment not exceeding twelve years or a fifth-category fine.

Article 384

Any person who cooperates directly or indirectly, at their own expense or at the expense of another, in the hiring out, chartering for freight or insuring of a vessel or aircraft, knowing that it is to be used for the purpose defined in article 381, is liable to a term of imprisonment not exceeding eight years or a fifth-category fine.

Article 385

Any person who intentionally places a Dutch vessel under the control of pirates is liable:

1°. to a term of imprisonment not exceeding twelve years or a fifth-category fine if he is the master of the vessel;

2°. to a term of imprisonment not exceeding nine years or a fifth-category fine in all other cases

Piracy-related criminal proceedings in the Netherlands from 2009 to the present

	Case	*Number of suspects*	*Stage*
2009	Cygnus	5	Conviction
2009	Portia	1	Ongoing investigation
2010	Shebelle	10	Extradition to Germany
2010	Choizil	5	Ongoing trial
2011	Dhow	5	Ongoing trial

(1) The Cygnus case is probably the best-known, as it was the first time Somalis were convicted in Europe for maritime piracy.

(2) The Portia case concerns a criminal investigation into the hijacking of *MV Marathon* during which one of the crew members was shot dead by the pirates. The owner of the ship, who lives in the Netherlands, was forced to pay ransom money to rescue his ship and its crew. The ongoing investigation is focusing on the arrest and prosecution for extortion of the individual who negotiated on behalf of the pirates.

(3) The Shebelle case concerns the rescue of the German merchant vessel *Taipan* by the Royal Netherlands Navy, during which 10 Somali suspects were arrested. On the instructions of the Dutch Public Prosecution Service, the Navy took the first steps towards collecting evidence. The suspects were transferred to the Netherlands, upon which the German authorities filed a request for their

extradition for trial. The request was eventually declared admissible by Amsterdam district court.

(4) The Choizil case concerns a Royal Netherlands Navy operation in the Indian Ocean. When a self-styled pirate action group was intercepted, the suspicion arose that some of the suspects could actually be responsible for the hijacking of a South African yacht. Owing to the serious nature of the offence — at the time of writing, more than a year after the incident, the whereabouts and condition of two of the yacht's passengers are unknown, although it is believed they are still being held by the pirates — the decision was made to prosecute a number of suspects. The defendants were convicted by Rotterdam district court in August 2011, and are currently appealing.

(5) The Dhow case concerns another operation by the Royal Netherlands Navy in the Indian Ocean. The defendants in this case are on trial for the attempted murder of Navy personnel and for armed robbery at sea. Proceedings are pending before Rotterdam district court.

Dutch initiatives for detecting and prosecuting piracy and those who finance it

- Since 2009, the Dutch Public Prosecution Service has held an annual meeting with European public prosecutors responsible for piracy cases. These meetings contribute to an active exchange of expert knowledge and information, and promote international cooperation in the fight against piracy.

- In 2011, at the Netherlands suggestion, a task force for investigating piracy and prosecuting pirates was set up. A number of European countries are involved. The aim is to step up prosecution of organizers, financiers and negotiators.

- In 2011, at the Netherlands suggestion, a joint investigation team (Nemesis) was set up. Dutch and German police will work together on a number of criminal cases involving piracy. The objective of the joint investigation team is to investigate and prosecute organizers, financiers and negotiators; where possible, to seize and confiscate the financial assets of these suspects; and to initiate and encourage judicial co-operation in this area with regional and national authorities in Somalia.

Norway

[Original: English]

Legislation

The criminal act

Piracy and armed robbery at sea is punishable under the general provisions on armed robbery and aggravated armed robbery in sections 267 and 268 of the Norwegian General Civil Penal Code.

The penalty for robbery is imprisonment for a term not exceeding five years while the penalty for aggravated robbery is imprisonment for a term not exceeding 12 years. If an aggravated robbery has resulted in death or considerable injury to body or health, imprisonment for a term not exceeding 21 years may be imposed.

Preparatory acts to piracy are also covered by the Code. A person who for the purpose of committing robbery equips or begins to equip any vessel is punishable pursuant to section 269 nr. 2.

According to section 151a, a person who on board a ship by violence, threats or otherwise unlawfully and forcibly takes control of the vessel or otherwise interferes with its sailing shall be liable to imprisonment for a term of not less than 2 years and not exceeding 21 years. The same is applicable for anyone who aids and abets such an offence. Attempts are similarly punishable within the same penalty frames.

Attempts to commit piracy/armed robbery at sea are punishable pursuant to section 49 of the Code.

Conspiracy to armed robbery is punishable pursuant to section 269, first paragraph, of the Code.

Aiding and abetting in armed robbery and aggravated armed robbery is punishable pursuant to sections 266, first paragraph, and 267, third paragraph, respectively. This provision also covers organizing and facilitating acts of piracy.

Prosecution

Norwegian criminal law applies to all acts that can be punished pursuant to Penal Code sections 151a, 266, 267 and 269, regardless of where the act is committed (in the realm, including Norwegian flagged vessels on the high seas, or abroad, including the high seas) and by whom (Norwegian nationals or foreigners). However, prosecution of foreigners in Norway, for acts committed abroad, may be limited to cases where Norwegian investigation and prosecution would be comparatively advantageous compared to prosecution by other jurisdictions.

Extradition

Suspected pirates apprehended in Norway can be extradited from Norway in conformity with the applicable Norwegian extradition legislation. Extradition is regulated in the Extradition Act, 13 June 1975. Extradition may take place irrespective of the existence of an extradition treaty. However, Norwegian nationals may not be extradited, except under certain conditions to other Nordic States, conf. Extradition Act, section 2, and Nordic Extradition Act, section 2.

Further, extradition may not take place if the person sought risks persecution based on his or her race, religion, nationality, political opinion etc., conf. Extradition Act, section 6. Extradition may also be refused on humanitarian grounds, conf. Extradition Act, section 7.

Norway will always require a formal extradition request, which, unless the requesting State adheres to the Schengen Implementation Convention, must be forwarded via diplomatic channels. The requirements for an extradition request are described in the Extradition Act, section 13, which corresponds with the European Convention on Extradition, 13 December 1957, section 12.

Mutual legal assistance

Mutual legal assistance in criminal matters is regulated in the Court Administration Act, 13 August 1915, sections 46-51 and the Extradition Act, 13 June 1975, chapter V.

Mutual legal assistance may be afforded irrespective of the existence of a treaty covering the assistance sought. The limitations on the assistance that may be afforded are to be found in domestic law, which as the main rule allows for the same measures to be taken based on a request from another State as in domestic criminal investigations and prosecutions.

Norway requires double criminality in order to comply with requests for coercive measures.

Unless otherwise provided in an applicable treaty, requests for mutual assistance should be forwarded via the diplomatic channel.

Transfer of proceedings

The act on Transfer of Proceedings, 25 March 1977, regulates the transfer of proceedings between Norway and States that have ratified the European Convention on the Transfer of Proceedings in Criminal Matters, 15 May 1972.

Such transfer may, however, also take place in relation to States that are not a party to this convention, thus transfer of proceedings is not dependent on any treaty obligation.

Requests for transfer of criminal proceedings not covered by the 1972 Convention or the European Convention on Mutual Assistance in Criminal Matters 20 April 1959, should be forwarded through the diplomatic channel.

Support of prosecution

Norway contributed 5 million USD to prosecution-related capacity-building in Somalia and neighbouring States in 2011. The prison sector in Puntland was the main beneficiary (80 per cent), including funds for the construction of new prison infrastructure in Garowe and training of the Puntland correctional service employees through the United Nations Office on Drugs and Crime.

Norway also contributed to the strengthening of the capacity of United Nations Office on Drugs and Crime in the field by seconding two correctional experts to its regional office in Nairobi. An additional 1 million USD was divided between projects to strengthen police investigations of piracy cases (International Criminal Police Organization (INTERPOL)), livelihoods (United Nations Development Programme) and various capacity-building projects (Trust Fund to Support the Initiatives of States to Counter Piracy off the Coast of Somalia). Most of the funds will be in use in 2012.

Oman

[Original: English]

The Government of the Sultanate of Oman, believing in the importance attached by the international community to combating piracy of the Somali coast and western Indian Ocean and Gulf of Aden, and guided by the relevant international conventions to which it has become a party, has taken a number of measures in line with Security Council resolution 2015 (2011), adopted on 24 October 2011 as follows:

1. The Sultanate of Oman confirms its commitment to the content of the provision of resolution 2015 (2011).

2. The competent tribunals, based on national legislations, have tried 12 Somali persons accused of piracy and armed robbery.

3. Keenness to participate in most meetings of the Contact Group on piracy off the coast of Somalia and Gulf of Aden and the working groups emanating from these groups.

4. The Sultanate of Oman supports all regional and international efforts in addressing this phenomenon, including the provision of necessary assistance to ships according to the available capability in Omani ports.

Panama

[Original: Spanish]

The Republic of Panama, aware of the problem currently posed by piracy, has criminalized it in Title IX "Crimes against the collective security", chapter VI, "Piracy", articles 319 to 322, of the Penal Code, which was adopted by Act No. 14 of 18 May 2007.

With respect to the prosecution of pirates, the Republic of Panama has not conducted any criminal trial of pirates captured on board vessels flying the Panamanian flag.

Panama's Maritime Authority, through the Merchant Marine Department, has been participating actively in the meetings of the Contact Group on Piracy off the Coast of Somalia and in all the meetings of its working groups. Particularly noteworthy in this connection is the work of Working Group 2 on legal and judicial issues and the prosecution of pirates, chaired by the Government of Denmark, in which issues related to jurisdiction over the prosecution of captured pirates are discussed.

Lastly, Panama's Maritime Authority supports the efforts of the Security Council and the Contact Group on Piracy off the Coast of Somalia to eliminate piracy in Somalia, the western Indian Ocean and the Gulf of Aden.

Qatar

[Original: Arabic]

Measures taken by the State of Qatar to combat piracy at sea

I. Legislative measures

Penal Law No. 11 (2004)

Law No. 11 (2004), article 17, concerning applicability, provides that the Law applies to anyone located in the State who has participated as a perpetrator or accomplice in crimes of drug trafficking, human trafficking, piracy or international terrorism committed abroad.

It follows that contrary to the territoriality principle, anyone who commits a crime of piracy outside the State of Qatar will be prosecuted for that crime before a Qatari court if he enters Qatar and is arrested.

Article 245, concerning public danger, provides that anyone who attacks a vessel or aircraft in order to gain control of it, or of some or all of the goods transported thereon, or in order to harm any individual located thereon, or in order to change its route unnecessarily, shall be sentenced to life in prison.

Capital punishment shall be imposed if the act results in a death.

The penalty shall be imprisonment for no more than five years if, after taking control of the vessel or aircraft, the perpetrator of his own accord returns it to its lawful pilot or to a person legally entitled to take control of it, provided that it or the goods contained thereon have not been damaged, and that no person located thereon has been harmed.

Article 245, also concerning public danger, provides that whoever in any way deliberately endangers the safety of aviation or navigation, or the safety of a vessel or aircraft or any means of public transport, shall be sentenced to imprisonment for no more than 10 years.

II. International and regional conventions

1. Decree No. 41 (2003) ratifies the 1982 United Nations Convention on the Law of the Sea.

2. Decree No. 2 (2009) approves the accession of the State of Qatar to the 1988 Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, with a reservation in respect of article 16, paragraph 1, concerning arbitration and referral to the International Court of Justice.

III. Regional level

In accordance with Security Council resolution 1851(2008), which encourages all States and regional and international organizations to establish an international cooperation mechanism to act as a point of contact among them, the General Secretariat of the League of Arab States has prepared a draft Arab protocol on combating piracy at sea. The draft protocol is included as an annex to the Arab Convention against Transnational Organized Crime, signed at the Secretariat of the League of Arab States, in Cairo, on 21 December 2010.

Qatar contributed to the preparation of the draft protocol, which contains 17 articles and is seven pages long. It is intended to strengthen cooperation among Arab States in order to prevent, suppress and prosecute the crime of piracy at sea, in addition to strengthening and deepening ties between Arab States in that regard.

IV. International co-operation

Qatar has contributed $500,000 to the United Nations anti-piracy trust fund.

Republic of Korea

[Original: English]

Korea's judicial actions against piracy

I. Criminalization of piracy under the national legal system

i. Criminal Act

- The criminal law of the Republic of Korea has been punishing piracy acts under the title of "Piracy" since the enactment of the *Criminal Act*, on 18 September 1953.
- Under this Act, the crime of piracy is deemed to have been committed when a person, through the threat of collective force in the sea, forcibly seizes a ship or forcibly takes another's property after intruding upon a ship. Any person who has committed this crime shall be punished by imprisonment for life or for not less than seven years; any person who commits the crime of piracy, thereby causing injury to another, shall be punished by imprisonment for life or for not less than 10 years; and any person who commits the crime of piracy, thereby killing another or causing another person's death or committing rape, shall be punished by death or imprisonment for life.[1]

ii. Act on Punishment for Damaging Ships and Sea Structures

- The *Act on Punishment for Damaging Ships and Sea Structures*, a special act to counter crimes of maritime terrorism, was enacted on 27 May 2003 and is currently in force.
- Under this Act, any person who seizes a ship or marine structure in operation by violence, threat, or any other means or who forces anyone to operate a ship shall be punished by imprisonment for life or for not less than five years; any person who injures or causes another person to be injured during the commission or attempted commission of the above offence shall be punished by imprisonment for life or for not less than seven years; and any person who murders or causes another person to be murdered during the commission or attempted commission of the above offence shall be punished by imprisonment for life or for not less than 10 years.[2]
- This act was legislated as a domestic implementing law to incorporate the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation and the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf, joined by the Republic of Korea in 2003.

• This act includes a provision that acknowledges jurisdiction of the Republic of Korea over seizure of foreign ship(s) committed by a foreigner.

II. Prosecution (including support) measures taken against suspected pirates

i. Prosecution

• Background

- On 15 January 15 2011, the *MV Samho Jewelry*, a Maltese-flagged chemical tanker sailing in the Arabian Sea with 8 Korean and 13 foreign crew members, was hijacked by 13 Somali pirates heavily armed with AK rifles, rocket guns, etc. At daybreak of 21 January 2011, the vessel and its crew were safely rescued by the Navy of the Republic of Korea dispatched to the waters off Somalia to ensure the safety of vessels transiting the high-risk piracy area.

- Five pirates from Puntland, Somalia were captured during the rescue operation and transferred to the Republic of Korea on 30 January 2011. According to the warrant of detention, requested by the prosecutor and issued by the Busan District Court, five suspected pirates were placed under detention at the Busan Detention Centre.

- The investigation of the pirates proceeded. On 25 February 2011, the Busan District Prosecutors' Office indicted five pirates for attempted murder during piracy, attempted murder during robbery, and causing injury in the course of special obstruction of public duty under the *Criminal Act* and for the violation of the *Act on Punishment for Damaging Ships and Sea Structures*.

• Personal information of suspected pirates

Name	*Gender*	*Age*	*Place of birth*
Mahomed Araye	Male	21	Puntland, Somalia
Abdulahi Husseen Maxamuud	Male	20	Puntland, Somalia
Awil Braale	Male	18	Puntland, Somalia
Abdulahi Ali	Male	23	Puntland, Somalia
Abdikhadar Aman Ali	Male	21	Puntland, Somalia

• Charges filed against suspected pirates

The five pirates, in collusion with eight other pirates, hijacked *MV Samho Jewelry* on 15 January 2011 and demanded ransom for their release. In the process, the pirates robbed the crew of their possessions by force, injured three Republic of Korea navy commandos resulting from a failed attempt of murder, injured one sailor, attempted to kill four sailors, including the captain, by using them as a human shield, and shot the captain in an attempt of murder.

• Trial proceedings

- (25 February 2011) Indictment of five pirates for attempted murder during piracy, etc. by the Busan District Prosecutors' Office

- (23 May - 1 June) Busan District Court (court of first instance) trial procedure and sentence[3]

- (31 May - 2 June) Appeals by the Busan District Prosecutors Office and each of the five defendants

- (8 August - 8 September) Busan High Court (appellate court) trial procedure and sentence[4]

- (9 - 15 September) Appeals by the Busan High Prosecutors" Office and each of the five defendants

- (22 December) Supreme Court decision[5]

ii. Support for piracy prosecutions by other countries

• Support for piracy prosecution by Japan

- On 6 March 2011, on the high seas of the Arabian Sea, the Navy of the United States of America arrested four pirates aboard the Japanese-owned oil tanker *Guanabara* in an attempt to hijack the vessel. On 11 March 2011, Japan took over the four pirates from the Navy of the United States of America and the Tokyo District Prosecutors Office initiated investigations. The Tokyo District Prosecutors Office indicted three adult suspects on 1 April 2011 and one minor suspect on 2 May 2011 according to Japan's Anti-Piracy Measures Law.

- At the request of the Japanese Government, a bilateral meeting between the Republic of Korea and Japan on piracy investigations was held on 24 June 2011 at the Busan District Prosecutors Office.

- Through the above meeting, the Busan District Prosecutors Office actively supported the Japanese Government regarding the prosecution of pirates, by sharing the experiences of investigating and prosecuting the pirates who hijacked the *MV Samho Jewelry* and by providing information on practical and legal problems in the investigation process.

• Support for piracy prosecution by the United States of America

- Collaborative investigation efforts were made from 28 to 29 September 2011, at the Busan District Prosecutors Office with participation of the Federal Bureau of Investigation and Naval Criminal Investigative Service. This was to reveal (1) the connection between the five pirates indicted in Korea for charges including the hijacking of *MV Samho Jewelry* and those indicted or convicted for piracy in the United States and (2) the pirate network.

Footnotes:

1 Criminal Act Article 340 (Piracy)

(1) A person who, through the threat of collective force in the sea, forcibly seizes a ship or forcibly takes another's property after intruding upon a ship, shall be punished by imprisonment for life or for not less than seven years.

(2) A person who commits the crime as referred to in paragraph (1), thereby causing injury to another, shall be punished by imprisonment for life or for not less than ten years.

(3) A person who commits the crime of paragraph (1), thereby killing another or causing another person's death or committing rape, shall be punished by death or imprisonment for life.

2 Act on Punishment for Damaging Ships and Sea Structures

Article 6 (Seizure of Ships)

(1) Any person who seizes a ship or marine structure in operation by violence, threat, or any other means or who forces anyone to operate a ship shall be punished by imprisonment with prison labor for life or for not less than five years.

(2) Any person who prepares or conspires to intentionally commit an offense under paragraph (1) shall be punished by imprisonment with prison labor for not more than five years: Provided, That any person who voluntarily surrendered before perpetrating the intended offense shall have the sentence mitigated or waived.

Article 12 (Murder, Manslaughter or Injury by Battery during Seizure of Ship)

(1) Any person who murders or causes another person to be killed during the commission or attempted commission of an offense under Article 6 (1) shall be punished by death or imprisonment with prison labor for life or for not less than ten years, while any person who injures, or causes another person to be injured, during the commission or attempted commission of such an offense shall be punished by imprisonment with prison labor for life or for not less than seven years.

3 The Busan District Court sentenced Mahomed Araye to life imprisonment, Abdulahi Husseen Maxamuud and Awil Buraale to imprisonment for 15 years, and Abdulahi Ali and Abdikhadar Aman Ali to imprisonment for 13 years.

4 The Busan High Court (appellate court) maintained the ruling by the lower court except for mitigating the sentence of Abdulahi Husseen Maxamuud to imprisonment of 12 years.

5 The Supreme Court upheld the ruling by the Busan High Court. The sentences for the convicted pirates will be carried out under the direction of the prosecutor.

Republic of Moldova

[Original: English]

The Republic of Moldova actively participates in the International Maritime Organization in terms of the piracy issue in general and on the coast of Somalia in particular.

The Republic of Moldova is following the practice of other flag States concerning the fight against piracy, and on the basis of the International Maritime Organization recommendations for the flag States regarding individual enrolment of armed personnel on board ships that are sailing in high-risk areas (MSC.1/Circ.1406/Rev.1), a notification was issued to all ship-owners in order to avoid high-risk areas, and in case of transiting these areas, to undertake all safeguard measures in accordance with the International Maritime Organization document mentioned above.

According to article 289 of the Moldovan Criminal Code, piracy is qualified as subject of infringement under the national law.

Russian Federation

[Original: Russian]

In accordance with its international commitments, the Russian Federation has criminalized maritime piracy under its domestic law, which includes penal and procedural provisions for the criminal prosecution of suspected pirates. Russian law enforcement and investigative bodies are also guided by provisions incorporated into Russian law in accordance with international treaties (conventions) to which the Russian Federation is a party and by resolutions of the Security Council.

The definition of piracy under Russian law is fully consistent with the definition contained in article 101 of the 1982 United Nations Convention on the Law of the Sea. Specifically, under Russian law, piracy is a penal offence criminalized under article 227 of the Criminal Code of the Russian Federation.

The taking of hostages (mainly seamen) by pirates is characterized in accordance with article 206 of the Criminal Code, "Hostage-taking," which defines this act as "the seizure or detention of a person as a hostage in order to compel a State, organization or individual to perform any act...".

When a crime related to acts of piracy on the high seas or in any other place outside State jurisdiction is identified, the principle of near-universal jurisdiction over acts of piracy is applicable. Thus, foreign nationals and stateless persons are subject to criminal prosecution on behalf of the Russian Federation regardless of the flag State of the vessel and/or the nationality of the victims of acts of piracy.

The obligations laid down in article 227 of the Criminal Code of the Russian Federation with respect to the verification of criminal allegations, the institution of criminal proceedings and the conduct of initial investigations and other procedural steps are the responsibility of the investigators of the military investigative bodies of the Russian Federation Investigative Committee. The investigators are seconded to the crews of the Navy's anti-piracy and navigation safety vessels. They exercise their authority in cooperation with military prosecution officers on board such ships.

The effectiveness of the anti-piracy legislation in force was demonstrated by the outcome of an investigation into the 24 July 2009 hijacking in Swedish territorial waters of the bulk freighter *Arctic Sea*, which had a Russian crew. The freighter was headed from Finland to Algeria with a cargo of timber. Six defendants were sentenced to prison terms ranging from five to seven years.

At the same time, work to enhance and adapt national legislation on unlawful acts at sea, including piracy, is ongoing. For example, regulations are being developed to clarify the jurisdiction of the Russian Federation over pirate vessels apprehended by Russian military personnel and over vessels seized by pirates. Legal provisions on the detention of persons suspected or accused of piracy are being prepared, including provisions for ensuring the necessary conditions for temporary custody in specially equipped facilities on board military vessels.

It has been proposed that the legislation should be supplemented with legal provisions that would expand specific procedural powers of commanders of military vessels and captains of non-military vessels, endowing them with investigative authority; increase the number of participants in criminal cases to include individuals providing legal assistance to suspected pirates; and modify procedural deadlines for the investigation of crimes of piracy.

Singapore

[Original: English]

1. As a maritime nation, Singapore shares the grave concerns of the international community over the piracy situation in the Gulf of Aden region. Singapore is committed to working with the international community on various initiatives to eradicate piracy off the coast of Somalia.

2. Singapore has in place the necessary laws for prosecuting acts of piracy, including those that involve hijackings, committed on the high seas. A copy of Singapore's national legislation on piracy, submitted earlier to the Division for

Ocean Affairs and the Law of the Sea in February 2010 via a third person note (Reference No. MFA/IOD/00051/2010), is appended.

3. Singapore welcomes and supports the adoption of Security Council resolution 2015 (2011). While the naval operations by various countries have gone some way in helping to deter piracy in the Gulf of Aden, it is clear that a permanent solution will not be possible without also finding solutions to the issue of prosecution, including building up the capacity of regional States to prosecute and imprison persons responsible for acts of piracy and hostage-taking off the coast of Somalia. We will continue to work closely with the United Nations and through the Contact Group on Piracy off the Coast of Somalia to develop comprehensive solutions to the problem of piracy off the coast of Somalia.

[...]

Extract of "Penal Code" (cap 224), CHAPTER VI.A "Piracy"

Piracy by law of nations. Cf. 12 and 13 Victoria c. 96 (Admiralty Offences (Colonial) Act 1849)

130B. —(1) A person commits piracy who does any act that, by the law of nations, is piracy.

(2) Whoever commits piracy shall be punished with imprisonment for life and with caning with not less than 12 strokes, but if while committing or attempting to commit piracy he murders or attempts to murder another person or does any act that is likely to endanger the life of another person he shall be punished with death.

Piratical acts

130C. Whoever, while in or out of Singapore –

(a) steals a Singapore ship;

(b) steals or without lawful authority throws overboard, damages or destroys anything that is part of the cargo, supplies or fittings in a Singapore ship;

(c) does or attempts to do a mutinous act on a Singapore ship; or

(d) counsels or procures a person to do anything mentioned in paragraph (a), (b) or (c),

shall be punished with imprisonment for a term not exceeding 15 years and shall be liable to caning.

Extract of "Maritime Offences Act" (CAP 1708)

Hijacking of ships

3.—(1) Subject to subsection (2), any person who unlawfully, by the use of force or by threats of any kind, seizes a ship or exercises control of a ship, shall be guilty of an offence, whatever his nationality or citizenship, whatever the state in which the ship is registered and whether the ship is in Singapore or elsewhere.

(2) Subsection (1) shall not apply to any act committed in relation to a warship, or any other ship used as a naval auxiliary or in customs or law enforcement service, unless—

(a) the person seizing or exercising control of the ship is a citizen of Singapore;

(b) the act is committed in Singapore; or

(c) the ship is used in the naval, customs or law enforcement service of Singapore.

Destroying or damaging ships, etc.

4.—(1) Subject to subsection (5), any person who unlawfully and intentionally—

(a) destroys a ship;

(b) damages a ship or its cargo so as to endanger, or to be likely to endanger, the safe navigation of the ship; or

(c) commits on board a ship an act of violence which is likely to endanger the safe navigation of the ship,

shall be guilty of an offence.

(2) Subject to subsection (5), any person who unlawfully and intentionally places, or causes to be placed, on a ship any device or substance which is likely to destroy the ship or is likely so to damage it or its cargo as to endanger its safe navigation shall be guilty of an offence.

(3) Nothing in subsection (2) shall be construed as limiting the circumstances in which the commission of any act may—

(a) constitute an offence under subsection (1); or

(b) constitute attempting or conspiring to commit or aiding, abetting, counselling, procuring or inciting the commission of the offence.

(4) Except as provided in subsection (5), subsections (1) and (2) shall apply whether any act referred to in those subsections is committed in Singapore or elsewhere, whatever the nationality or citizenship of the person committing the act and whatever the state in which the ship is registered.

(5) Subsections (1) and (2) shall not apply to any act committed in relation to a warship, or any other ship used as a naval auxiliary or in customs or law enforcement service, unless—

(a) the person committing the act is a citizen of Singapore;

(b) the act is committed in Singapore; or

(c) the ship is used in the naval, customs or law enforcement service of Singapore.

[...]

Offences involving threats

6.—(1) A person shall be guilty of an offence if—

(a) in order to compel any other person to do or abstain from doing any act, he threatens that he or some other person will do in relation to any ship an act which is an offence under section 4 (1); and

(b) the making of that threat is likely to endanger the safe navigation of the ship.

(2) Subject to subsection (4), a person shall be guilty of an offence if-

(a) in order to compel any other person to do or abstain from doing any act, he threatens that he or some other person will do an act which is an offence under section 5 (1); and

(b) the making of that threat is likely to endanger the safe navigation of any ship.

(3) Except as provided in subsection (4), subsections (1) and (2) shall apply whether any act referred to in those subsections is committed in Singapore or elsewhere, whatever the nationality or citizenship of the person committing the act and whatever the state in which the ship is registered.

(4) Section 4 (5) shall apply for the purposes of subsection (1) as it applies for the purposes of section 4 (1); and section 5 (6) shall apply for the purposes of subsection (2) as it applies for the purposes of section 5 (1).

Ancillary offences

7.—(1) Any act of violence done by any person in connection with an offence under section 3, 4 or 5 committed or attempted to be committed by him shall be deemed to have been committed in Singapore and shall constitute an offence punishable under the law in force in Singapore applicable to it, wherever the act of violence was committed, whatever the state in which the ship concerned is registered (if any), and whatever the nationality or citizenship of the person committing or attempting to commit the act.

(2) Subsection (1) is without prejudice to section 180 of the Merchant Shipping Act (Cap 179).

(3) Any person in Singapore who abets the commission elsewhere of any act which would—

(a) but for section 3 (2), be an offence under that section;

(b) but for section 4 (5), be an offence under that section;

(c) but for section 5 (6), be an offence under that section; or

(d) but for section 6 (4), be an offence under that section,

shall be guilty of an offence.

[...]

General penalties

9.—(1) Any person guilty of an offence under this Act for which no penalty is expressly provided shall be liable on conviction to be punished with imprisonment for life.

(2) For the avoidance of doubt, subsection (1) shall not apply to any act which constitutes an offence punishable under the law in force in Singapore applicable to it by virtue of section 7 (1).

Consent for prosecution

10.—(1) No prosecution shall be instituted under this Act without the written consent of the Public Prosecutor.

(2) Notwithstanding that consent has not been given in relation to the offence in accordance with subsection (1)—

(a) a person may be arrested for an offence under this Act;

(b) a warrant for the arrest of any person in respect of any offence under this Act may be issued and executed;

(c) a person may be charged with an offence under this Act; and

(d) a person charged with any offence under this Act may be remanded in custody or granted bail,

but no further steps in the proceedings in relation to the offence shall be taken until the consent of the Public Prosecutor has been obtained.

Slovakia

[Original: English]

The criminal act of piracy is within the Slovak legal order criminalized by the Criminal Code (Act No. 300/2005 of the Collection of Laws). Piracy is covered by the provisions concerning the crime on jeopardy of the safety of aircraft and ship (para. 291), taking of hostages (para. 185) and robbery (para. 188). The Slovak Republic is of the view that the existing national legal regime provides all necessary requirements for criminalization of piracy and prosecution of individuals suspected of piracy off the coast of Somalia and imprisonment of convicted pirates.

Slovenia

[Original: English]

In November 2011, amendments to the Criminal Code of the Republic of Slovenia KZ-1 (Official Journal of the Republic of Slovenia, Nr. 55/08, 66/08 — amended, 39/09) were adopted with

KZ-1B (Official Journal of the Republic of Slovenia, 91/11). Inter alia, the criminal offence of piracy (Article 374 KZ-1) has also been changed. Amendments shall enter into force six months after KZ-1B was published in the Official Gazette of the Republic of Slovenia (namely, 15 May 2012). The unofficial translation of the amended provision on piracy is attached.

In addition the State Prosecutor's Office in Koper, which would presumably deal with cases of piracy according to the rules of territorial jurisdiction, so far did not deal with any case of piracy.

[...]

Piracy

Article 374 [Unofficial translation]

(1) A crew member or passenger on a vessel or aircraft other than military ship or aircraft and public ship or aircraft, who in breach of rules of international law with intention of acquiring material or non-material gain for himself or other or causing great damage to other, on the high seas or in a place that is outside of jurisdiction of any State, unlawfully commits an act of violence, detention or any kind of pillaging against another vessel or aircraft,

persons or property on board of such vessel or aircraft, shall be given a prison sentence of between one and ten years.

(2) The piracy from first paragraph of this Article shall also be considered if an act is committed by a member of a crew of military or public ship or aircraft, which unlawfully undertakes a mutiny and takes over command of the ship or aircraft.

(3) If the offence under paragraphs 1 or 2 of this Article entails the death of one or more persons or a large property damage, the perpetrator shall be given a prison sentence of between five and fifteen years.

Spain

[Original: Spanish]

Domestic legislation relevant to Security Council resolution 2015 (2011)

1- In terms of criminalization, the offence of maritime piracy was reintroduced into the Spanish Criminal Code through Organization Act 5/2010 of 22 July, which came into force on 22 December 2010. The Act adds a new Chapter V under Title XXIV of Book Two of the Criminal Code, which contains articles 616 ter and 616 quater.

Article 616 ter:

"Anyone who through violence, intimidation or fraud, seizes, damages or destroys an aircraft, ship or other type of vessel or sea platform, or threatens persons, cargo or goods aboard such vessels, shall be convicted of piracy and liable to a term of imprisonment of 10 to 15 years.

In all cases, the penalty provided in this article shall be imposed without prejudice to those [penalties] imposed for any [other] offences committed."

Article 616 quáter:

"1. Anyone who resists or disobeys a war ship, or military aircraft or any other ship or aircraft that is seeking to prevent or prosecute the acts set forth in the previous article and is authorized to do so, and which bears clear signs of and is identifiable as a ship or aircraft of the Spanish State, shall be liable to a term of imprisonment of one to three years.

2. If, in the course of the act described above, force or violence is used, a penalty of imprisonment for a term of 10 to 15 years shall be imposed.

3. In all cases, the penalties described in this article shall be imposed without prejudice to those [penalties] imposed for any [other] offences committed."

2- With regard to the issue of jurisdiction, Spanish tribunals have the jurisdiction to judge offences of piracy committed by Spaniards or foreigners

outside of the national territory, as provided in article 23 of Judicial Power Organization Act 6/1985 of 1 July.

Organization Act 1/2009 of 3 November, which took effect on 5 November 2009, incorporated into paragraph 4 of the above-mentioned article 23 the terms under which Spanish courts may hear piracy cases, as follows: (1) the accused must be present in Spain, or (2) there must be victims of Spanish nationality, or (3) a relevant link to Spain must be established. In all cases, proceedings involving the investigation or prosecution the alleged act of piracy must not have been initiated in another competent country or in an international court.

In addition, the criminal proceedings initiated in a Spanish court shall be temporarily stayed where it has been established that proceedings based on the same alleged acts have been initiated elsewhere.

Paragraph 4 of article 23 of the Judicial Power Act (Organization Act 6/1985 of 1 July):

> "4. Spanish jurisdiction shall also apply to acts committed by Spaniards or foreigners outside the national territory when those acts can be classified as one of the following offences, under Spanish law:
>
> (a) Genocide or crimes against humanity.
>
> (b) Terrorism.
>
> (c) Piracy or unlawful seizure of aircraft.
>
> (d) Crimes related to prostitution or the corruption of minors and legally incompetent persons.
>
> (e) Unlawful trafficking in psychotropic, toxic or narcotic drugs.
>
> (f) Unlawful trafficking in or smuggling of persons, whether or not they are workers.
>
> (g) Offences related to female genital mutilation, as long as those responsible are present in Spain.
>
> (h) Any other offence which, pursuant to international treaties or conventions, in particular conventions on international humanitarian law or the protection of human rights, should be prosecuted in Spain.
>
> Without prejudice to the provisions of international treaties and agreements signed by Spain, in order for Spanish courts to have jurisdiction over the offences listed above, it must be established that the alleged perpetrators are present in Spain, that there are victims of Spanish nationality or that there is some relevant link with Spain and, in any event, that no other competent country or international court has initiated proceedings to investigate and, where appropriate, prosecute, such offences.
>
> The criminal proceedings initiated in a Spanish court shall be temporarily stayed where it has been established that proceedings based on the alleged acts have been initiated in a country or by a court referred to in the previous paragraph."

Measures taken to criminalize piracy under Spanish domestic law and to prosecute and support the prosecution of individuals suspected of piracy off the coast of Somalia as well as the imprisonment of those convicted of such acts

Spain's current regulatory system contains all of the instruments that have been defined at the international level as being necessary and appropriate to prosecute the crime of piracy.

This regulatory system is based on the principles of international law on piracy, which were integrated using the criteria agreed by international organizations and forums working to combat piracy, of which Spain is an active member.

In that respect, the recent criminalization of piracy and the amendment of the articles of Spanish law pertaining to so-called "universal jurisdiction" should be noted. Both of these legislative changes constitute positive steps towards prosecuting this offence and incorporate the recommendations contained in the relevant Security Council resolutions.

The present document is aimed at presenting the amendments. The judgements issued by Spanish courts on these types of offences are included at the end of the document. (It should be noted that Spain has a specific court, the National High Court, dedicated to hearing, inter alia, piracy cases, pursuant to article 65.1 (e) of Judicial Power Organization Act 6/1985 of 1 July).

I. Criminalization of the offence of maritime piracy in Spanish legislation

The offence of maritime piracy was reintroduced into the Spanish Criminal Code through Organization Act 5/2010 of 22 July, which amended Organization Act 10/1995 of 23 November of the Criminal Code. The amendment came into force on 23 December 2010, as provided in the seventh final provision of the act.

The amendment adds a new Chapter 5 (Offence of Piracy) under Title XXIV (Offences against the International Community) of Book Two (Offences and Their Punishments) of the Criminal Code, under the heading Offence of Piracy, which is made up of two articles (see article 616 ter and article 616 quater above.

II. Amendment concerning the exercise of universal jurisdiction by Spanish courts

Organization Act 1/2009 of 3 November amended, inter alia, article 23.4 of Judicial Power Organization Act 6/1985 of 1 July, which pertains to, among other issues, the so-called universal jurisdiction of Spanish courts over the offence of piracy (see article 23.4 above).

III. Recent cases brought before Spanish courts

The Spanish courts had the opportunity to issue judgements on acts of piracy off the coast of Somalia in the so-called "Alakrana" case, concerning the hijacking of the tuna purse seine vessel of the same name, flying the Spanish flag, at the end of 2009.

Two of the assailants were detained by the Spanish frigate *Canarias* as part of the European Union's Operation Atalanta, which was established by Council Joint

Action 2008/851/CFSP of 10 November 2008, on a military operation to contribute to the deterrence, prevention and repression of acts of piracy.

Following the submission of a complaint by the State Prosecutor on 3 October 2009, Central Court of Investigation No. 5 sentenced the two assailants to imprisonment and transfer to Spanish territory.

Later, on 16 November 2009, an indictment was issued, and on 17 November the case records were sent to the Criminal Chamber of the National High Court (fourth division). On 3 May 2011, this Chamber sentenced the two individuals on trial, listing the offences committed and penalties as follows:

> "1°.- For committing one count of unlawful association, a term of two years of imprisonment and a fine equivalent to 12 months, at the rate of 6 euros a day, for each of the accused.
>
> 2°.- For committing 36 counts of illicit detention, 36 terms of 11 years of imprisonment for each of the accused.
>
> 3°.- For committing violent robbery, a term of 5 years of imprisonment for each of the accused.
>
> 4°.- For committing 36 counts of offences against moral integrity, 36 terms of one year of imprisonment for each of the individuals mentioned."

Lastly, attention is drawn to the severity of the sentence, despite the fact that the new offence of piracy was not charged in the case, as the criminalization of the act was not yet in force when the crimes were committed.

Turkey

[Original: English]

1. The Turkish Penal Code contains both procedural and substantive clauses which address acts of piracy and armed robbery at sea. Article 8 on Territorial Jurisdiction, paragraph 2, extends the criminal jurisdiction of Turkish courts to offences committed within Turkish territorial sea, as well as in the high seas when Turkish flagged vessels or Turkish citizens on board of foreign flagged vessels are subjected to criminal activity. Likewise, article 13(1)(i) states that Turkish law shall apply in cases of illegal seizure or hijacking of air or sea transport vehicles. The crime of hijacking a vessel prompts a penalty of imprisonment for a term of two to five years (article 223(2)).

2. In this respect, unlawful acts committed against an air or sea vehicle in the high seas are penalized under the relevant provisions of the Turkish Penal Code. For instance, articles 81 and 86 of the Turkish Penal Code penalize the acts of intentional killing and intentional injury respectively. Article 106 of the Turkish Penal Code penalizes armed coercion, whereas articles 148 and 149 penalize the acts of armed robbery. Lastly, article 152 of the Turkish Penal Code penalizes the acts of aggravated damage to property.

3. Another criminal offence that may be relevant to piracy-related activities is the illegal seizure of a fixed platform located on the continental shelf or exclusive

economic zone of Turkey, which is also punishable with a penalty of imprisonment for a term of 5 to 15 years (article 224).

4. In case of attempt to commit piracy/armed robbery at sea, the Turkish Penal Code contains two articles on attempt and voluntary abandonment, article 35 and article 36 respectively. In case of attempt, the penalty is reduced by one-quarter to three-quarters of the penalty for the committed crime.

5. As to conspiracy, the general clauses are contained in articles 37 to 41 of the Turkish Penal Code. The degree of responsibility of a conspirer depends on the type of conspiracy. Various cases covered in these articles are: principal involvement, incitement, assistance and the case of voluntary abandonment in jointly committed offences. This is also valid for aiding and abetting.

6. In order to address the establishment of an organization for the purpose of committing a crime, the Turkish Penal Code contains a general clause, that is, article 220. There is a requirement of at least three persons to form a criminal organization. Possession of arms is an aggravating factor. If the intended crime is committed, it is punished separately.

7. As to the prosecution of persons having committed/suspected of committing acts of piracy/armed robbery, article 12 of the Turkish Penal Code states that crimes of certain gravity shall prompt the prosecution of the accused (regardless of his nationality) by Turkish courts. In particular, paragraph 2 reads as follows:

> "Where the aforementioned offence is committed to the detriment of a Turkish citizen or to the detriment of a legal personality established under Turkish civil law and the offender is present in Turkey and there has been no conviction in a foreign country for the same offence then, upon the making of a complaint by the victim, he shall be subject to penalty under Turkish law."

8. For the purposes of prosecution, nationality of pirates is immaterial, since article 13(1) states:

> "Turkish law shall apply to the following offences committed in a foreign country whether or not committed by a citizen or non-citizen of Turkey:
>
> (...)
>
> (i) Seizing control or hijacking of air, sea or rail transport vehicles ..."

9. However, the nationality plays a basic role as far as extradition questions are concerned.

10. In terms of jurisdiction, as indicated in above, article 8 of the Turkish Penal Code on Territorial Jurisdiction, paragraph 2, extends the criminal jurisdiction of Turkish courts to offences committed within Turkish territorial sea, as well as on the high seas when Turkish flagged vessels are subjected to criminal activity. Also, article 13(1)(i) states that Turkish law shall apply in cases of seizing control or hijacking of air or sea transport vehicles. Thus, Turkish courts always have jurisdiction over crimes committed against Turkish vessels, while they may have jurisdiction on foreign vessels subject to a set of conditions (particularly article 12).

11. Detention and investigation of persons who have committed piracy-related offences are subject to the discretion of the commander of the Turkish naval ship in

the area, who will use his/her power in accordance with Turkish legislation, in particular with the decision of the Turkish Grand National Assembly, n. 934 of 10 February 2009, which authorizes the Government of Turkey to send naval forces to the area in question. The effective period of this decision was later extended for one year by decision n. 956 of 2 February 2010 of the Turkish Grand National Assembly, and lastly the decision was extended for another year on 25 January 2012. Issues related to detention and investigations are basically regulated by the Criminal Procedure Code.

United Arab Emirates

[Original: English]

At the national level

- The United Arab Emirates criminalized piracy activities in all its forms and brings perpetrators to justice at the national level. For this purpose, the Government of the United Arab Emirates issued Federal Law 3, 1987 - the Penal Code, which in part 1 (Crimes constituting public danger), chapter 4 (Attacks Against Public Transport and Utilities), article 288 stipulated that "Any person, who attacks an aircraft or a ship for the purpose of taking possession thereof or whole or part of goods carried thereon, or assaulted one or more of its passengers or diverted its direction unnecessarily shall be sentenced to life imprisonment". Article 289 stipulated that "Any person, who intentionally endangers the safety of a ship or an aircraft or any other means of public transport shall be subject to a term of imprisonment. The sentence will be life imprisonment if the assault leads to a disaster affecting the above-mentioned".
- The United Arab Emirates has issued Federal Law 1/2004 on combating crimes of terrorism, in pursuance of articles No. 15, 16 and 17 of the Penal Code.

At the regional level

The Government of the United Arab Emirates acceded to the following regional conventions against terrorism:

1- Federal Decree No. 103/1998 on the Arab Convention on the Suppression of Terrorism.

2- Federal Decree No. 54/2004 on the Gulf Cooperation Council Convention on Combating Terrorism.

3- Federal Decree No. 36/2007 on the accession of the United Arab Emirates to the Convention of the Organization of the Islamic Conference on Combating International Terrorism.

4- The Arab Convention on Combating Transnational Organized Crime.

At the international level

1- Federal Decree No. 8/1981 on the Convention on Offences and Certain Other Acts Committed on Board Aircraft.

2- Federal Decree No. 95/1980 on the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation.

3- Federal Decree No. 9/1981 on the Convention on Offences and Certain Other Acts Committed on Board Aircraft.

4- Federal Decree No. 91/2005 on the International Convention for the Suppression of the Financing of Terrorism.

5- The United Nations Convention against Transnational Organized Crime.

Furthermore, the United Arab Emirates concluded bilateral agreements on cooperation in combating terrorism and organized crime with a number of countries, including Turkey, Pakistan and Uzbekistan. The United Arab Emriates is currently participating with the members of the League of Arab States in drafting a protocol on combating maritime piracy, which is complementary to the Arab Convention on Combating Transnational Crime, which the United Arab Emirates signed on 21 December 2010.